


IN THE COURT OF COMMON PLEAS OF  
LUCAS COUNTY, OHIO

EXHIBIT 16

STATE OF OHIO, )  
)  
PLAINTIFF, ) CASE NO. CR06-3339  
)  
v. )  
) JUDGE BARBER  
ROBERT WILSON  
DEFENDANT. 

- - -  
BE IT REMEMBERED, that in the trial of  
the aforementioned cause on September 4, 2008,  
before the Honorable James E. Barber, in the  
Lucas County Court of Common Pleas, the following  
proceedings were held, to wit:

APPEARANCES:

On behalf of the Plaintiff:  
Assistant Lucas County Prosecutor,  
Michael Loisel, Esquire

- - -  
On behalf of the Defendant, Robert Wilson:  
Ronnie L. Wingate, Esquire  
Neil S. McElroy, Esquire

- - -  
Stacey L. McDevitt, RPR, Official Court Reporter  
Lucas County Common Pleas Courthouse,  
700 Adams Street, Toledo, Ohio 43624  
(419) 213-4477  
- - -

1 I N D E X

2

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1 SEPTEMBER 4, 2008

2 COURTROOM #3

3 9:18 A.M.

4 (WHEREUPON THE FOLLOWING DISCUSSION WAS  
5 HELD OUTSIDE THE PRESENCE OF THE JURY.)

6 THE COURT: All right. We are back on  
7 the record in chambers about to commence the  
8 third day of trial in the Robert Wilson case.  
9 Just note, just got a note from the criminal  
10 Bailiff indicating that she had received a note  
11 from one from one of the jurors, shared a copy of  
12 that note with Counsel, and I guess I would ask  
13 the attorneys how you want me to respond to this  
14 note.

15 MR. WINGATE: Before you start, Mike, do  
16 we know which juror it was?

17 MS. JOHNSON: It is written on it Juror  
18 Number 2, Al --

19 MR. MCELROY: Al Montague.

20 THE COURT: Yes, Juror Number 2, Al  
21 Montague.

22 MR. LOISEL: Well, I mean with respect  
23 to this, Judge, I will ask that it be marked and

1           be made a Court exhibit so it can be kept for the  
2           record. At this point, I mean, we haven't even  
3           begun deliberations yet. I don't think it is  
4           proper for the Court, and I think the Defense  
5           would agree to respond, just indicate that you  
6           received a question and we can't respond at this  
7           time. I mean, I don't know how you want to  
8           phrase it, but we can't answer his questions.

9                   THE COURT:        I understand that. Do you  
10          want to instruct the Bailiff just to tell the  
11          juror that we received the note and we can't  
12          respond at this point?

13                  MR. LOISEL:       I mean, I think that's the  
14          gist that we have to tell them. I don't know  
15          what Defense Counsel thinks, but, yeah, something  
16          along those lines.

17                  MR. WINGATE:     That would be fine. Can I  
18          see the note?

19                  THE COURT:        Sure.

20                  MR. WINGATE:     Yeah, Your Honor, that  
21          would be fine just to instruct the Bailiff to  
22          tell the juror that we received a note but we  
23          can't respond to it.

1                   THE COURT:       All right. Ms. Johnson,  
2       you heard --

3                   MS. JOHNSON:    I did. Would you like for  
4       me to do that now?

5                   THE COURT:       No. Wait until we're done  
6       here.

7                   MR. LOISEL:     Judge, for purposes of the  
8       record, do you want to do that when the jury is  
9       seated or would you rather do it as part of the  
10      record that you can indicate that the Court  
11      received a question from --

12                  THE COURT:       I can do it myself right  
13      from the bench if you want.

14                  MR. LOISEL:     I think it would be more,  
15      again, for the purposes of the record I think  
16      that would be better than having the Bailiff just  
17      tell the jurors.

18                  THE COURT:       Sure, I could do it right  
19      from the bench just before we get started.

20                  MR. MCELROY:    That may raise an issue  
21      when they get back there, not that the jurors are  
22      not going to discuss that question with the  
23      jurors anyway, but it may raise an issue that

1 makes a big deal of, well, what question did you  
2 ask, why can't you answer it. And maybe we could  
3 just bring him in.

4 THE COURT: No. I'm just going to  
5 tell the panel that I received a note and we  
6 can't respond.

7 MR. LOISEL: Correct me if I am wrong,  
8 but I think essentially the reason you can't  
9 answer this question is it is not the proper  
10 time. You will instruct them that, I mean, at  
11 some point they can ask questions, but they  
12 haven't received the case yet and, therefore, it  
13 is improper for them to begin asking questions  
14 until they receive the entire case. I mean,  
15 that's ultimately -- I don't know if you want to  
16 read the question into the record so it is clear.

17 THE COURT: I'm just going to mark  
18 this as a Court's Exhibit Number 1.

19 MR. LOISEL: Very well.

20 THE COURT: What else do we have at  
21 this point?

22 MR. LOISEL: Judge, the first witness  
23 State intends to call is the Deputy Coroner,

1 Dr. Diane Scala-Barnett. She has  
2 approximately -- well, the State intends to show  
3 one, two, three, four, five, six, approximately  
4 seven photographs from the autopsy. I've shared  
5 those with Defense Counsel. I would ask that we  
6 be allowed to publish those to the jury for the  
7 purposes of her benefit to explain what each  
8 picture depicts.

9 THE COURT: Once she's identified  
10 them --

11 MR. LOISEL: Yes.

12 THE COURT: -- and qualified them.

13 MR. LOISEL: Obviously, yes.

14 MR. WINGATE: But procedurally you're  
15 not putting it up on the screen and then going  
16 through her identifying them. Are you showing  
17 her that picture first? How do you intend to do  
18 it?

19 MR. LOISEL: Well, I can do it however  
20 the Court desires. I can show her the picture,  
21 say Are you familiar with this picture? Yes.  
22 I'm assuming she would say yes. What does it  
23 depict? The whole idea is so that she doesn't

1       have to explain it twice, once while looking at  
2       the picture and once while it is being published  
3       to the jury. She can authenticate them. Are you  
4       familiar with these pictures? Yes. Do they  
5       appear to be in substantially the same condition  
6       or the condition as when you saw them or took  
7       them back in 1993? And I think if she can  
8       authenticate them -- authenticate each and every  
9       picture prior to publishing them, that's  
10      obviously the State's request at this point. I  
11      mean, obviously she's going to authenticate them.

12               MR. WINGATE:    Your Honor -- could I see  
13      them again, Mike?

14               MR. LOISEL:     Yes.

15               MR. WINGATE:    I'm sorry.

16               MR. LOISEL:     I have explained to  
17      Attorney Wingate that these pictures, and  
18      obviously the Court can make its final ruling,  
19      are not duplicative and I believe she will  
20      testify as to the importance of each picture as  
21      to why it is relevant in this particular case.

22               MR. WINGATE:    Your Honor, I would, and I  
23      understand I can anticipate the Court's ruling,



1 but for the record we would object to the  
2 publishing of the photographs inasmuch as they  
3 are somewhat gruesome and inflammatory and I  
4 believe that it would be prejudicial against  
5 Mr. Wilson to have them shown to a jury.

6 THE COURT: All right. Well, I  
7 certainly understand your objection. I've been  
8 in your chair on that issue before. So I'm going  
9 to overrule your objection, the exception is  
10 noted, and I'm going to allow you to publish  
11 those. Once they are qualified and  
12 authenticated, I will allow you to publish them  
13 to the jury. What else we got?

14 MR. LOISEL: I don't think there are  
15 any other matters that need to be addressed at  
16 this point, Judge.

17 THE COURT: Okay. We anticipate  
18 getting done tomorrow, right?

19 MR. WINGATE: Yes. No question.

20 MR. LOISEL: Judge, well, as we  
21 discussed before, we're optimistic. Hope to get  
22 done today but that is yet to be determined. But  
23 the State intends to, if things go as expected,

1 to be finished with its case in chief prior to  
2 lunch today.

3 THE COURT: Well, it is 9:25. All  
4 right. Let's go do it.

5 (WHEREUPON THE PRECEDING DISCUSSION  
6 OUTSIDE THE PRESENCE OF THE JURY CONCLUDED AND  
7 THE FOLLOWING PROCEEDINGS WERE HELD.)

8 THE COURT: Before we get started, I  
9 guess we should indicate I bid all of you good  
10 morning, and just before we get started with the  
11 testimony of the day, I should put on the record  
12 here that I did receive a note from one of the  
13 jurors, and I would only respond that there will  
14 be a time when questions can be asked after all  
15 the case has been presented, so until that time,  
16 kind of keep your questions in mind and when the  
17 proper time comes, you can reduce them to  
18 writing. Mr. Loisel.

19 MR. LOISEL: Thank you, Judge. At this  
20 time the State of Ohio called  
21 Dr. Diane Scala-Barnett.

22 THE COURT: Call Dr. Barnett.

23 - - -

1 DIANE SCALA-BARNETT, M.D.,  
2 being first duly sworn by the Court, testified as  
3 follows:

4 THE COURT: Just give us your name and  
5 spelling of your name.

6 THE WITNESS: It's Diane, D-I-A-N-E,  
7 last name is hyphenated S-C-A-L-A--B-A-R-N-E-T-T.

8 DIRECT EXAMINATION

9 BY MR. LOISEL:

10 Q. Good morning, Doctor.

11 A. Good morning.

12 Q. Obviously the jury just heard your name.  
13 Can you introduce yourself to the jury and where  
14 you work.

15 A. I work at the Lucas County Coroner's Office.  
16 I'm a physician, forensic pathologist, and a  
17 deputy coroner.

18 Q. Now, Doctor, can you explain to us your  
19 occupation and what are the duties that are  
20 entailed with your job?

21 A. Well, basically every day I perform  
22 autopsies to determine the cause and manner of  
23 death. We issue death certificates and verdicts

1 to document those findings. We sometimes go to  
2 scenes with our investigators and we testify in  
3 court sometimes like today. Basically I do that  
4 as the majority of my job. I also teach medical  
5 students who are rotating through pathology and as  
6 an elective at the Coroner's Office, so we teach  
7 forensic pathology.

8 Q. Okay. And I guess before we get too far  
9 ahead of ourselves, can you give us a little bit  
10 of history with respect to your education and  
11 background?

12 A. In a nutshell my educational background is  
13 high school graduate; four years of college; a  
14 year of graduate school; four years of medical  
15 school; a year of internship; four years of  
16 pathology residency; and a year of fellowship  
17 training in forensic pathology.

18 Q. And with respect to that education, do you  
19 hold any licenses or are you on any boards or  
20 committees?

21 A. I'm licensed to practice medicine in the  
22 states of Ohio and Illinois. I'm doubly board  
23 certified in pathology and forensic pathology.

1 Q. And tell us what it means to be board  
2 certified.

3 A. That means you have completed the required  
4 testing and that makes you eligible to sit for  
5 board examination to prove competency in your  
6 field of expertise, and when you have successfully  
7 passed that exam, that means you are board  
8 certified.

9 Q. And how long, you may have already said  
10 this, how long have you been a coroner?

11 A. I've been Deputy Coroner --

12 Q. Deputy Coroner -- I'm sorry.

13 A. -- since 1985.

14 Q. And is that when you received your board  
15 certification?

16 A. No. I received it later. I had -- I  
17 believe I had only one board when I started. I  
18 got my forensic boards later.

19 Q. And can you explain to us essentially you  
20 said board certified in forensic pathology. Can  
21 you explain to us, you may have already done a  
22 little bit, forensic pathology? What is forensic  
23 pathology?

1       A.       Well, you know, the pathologist is usually  
2       the doctor that stays in the basement and looks  
3       through microscope all day, and they are the ones  
4       that diagnose disease and they look at tissues  
5       under microscope, but there is a subspecialty in  
6       pathology that deals with medical legal medicine  
7       which is forensic pathology, and we are the  
8       doctors that determine the cause and manner of  
9       death by performing autopsies and considering what  
10      the scene investigation is or what the  
11      circumstances surrounding the death are.

12      Q.       Now, you were working in this capacity back  
13      in 1993, correct?

14      A.       Yes, I was working at the Lucas County  
15      Coroner's Office, uh-huh.

16      Q.       Do you recall performing an autopsy on or  
17      about December 3rd of 1993 on one Brenda Navarre?

18      A.       I didn't recall it until I reviewed it.

19      Q.       So, you had a chance to review -- what did  
20      you review?

21      A.       I reviewed our chart that we have and all of  
22      my original notes and the autopsy protocol. I  
23      also have in this chart the hospital records from

1 her admission, and the toxicology results, and the  
2 investigator's report.

3 Q. And when you conduct an autopsy, do you make  
4 a record of that autopsy? You just explained what  
5 you reviewed, but do you make a record of each and  
6 every autopsy that you perform?

7 A. Yes.

8 Q. And what are -- again, what are included  
9 within your reports?

10 A. Generally what's included is there's a body  
11 diagram where we take all of our notes during the  
12 process. We may have several diagrams. From  
13 these diagrams and notes we dictate an autopsy  
14 protocol which, you know, is the formal report.  
15 And in that body of the report you have the  
16 external examination, the internal examination,  
17 any injuries that occurred externally and  
18 internally, any natural diseases that the person  
19 may have had and also as part of that report, we  
20 incorporate toxicology findings when we receive  
21 those from the toxicology lab.

22 Q. And are those kept -- and where are those  
23 records kept?

1       A.       These record are secured actually at the  
2       Coroner's Office.

3       Q.       They are made every day part of your  
4       business?

5       A.       Yes.

6               MR. LOISEL:       Judge, may I approach the  
7       witness?

8               THE COURT:       Yes.

9       Q.       Doctor, I'm going to hand you what's been  
10       marked previously as State's Exhibit 13, 14 and  
11       15. If you could take a look at those for me,  
12       please.

13       A.       Okay.

14       Q.       And are you familiar with --

15       A.       Yes.

16       Q.       -- State's Exhibits 13, 14 and 15?

17       A.       Yes.

18       Q.       Could you explain what State's Exhibit 13  
19       is?

20       A.       State's Exhibit 13 is actually the case  
21       summary which is the very first page of the  
22       autopsy report. State's Exhibit 14 is the body of  
23       the report which describes all of the findings



1       that we just talked about, internal, external.

2       That is a five page report. And then the State's

3       Exhibit 15 is a copy of the toxicology report.

4               MR. LOISEL:       And, Judge, may I

5       approach?

6               THE COURT:       Sure.

7       Q.       And, Doctor, I apologize this is out of  
8       order number wise, but I would like to ask you to  
9       look at State's Exhibit 23 as well. Are you  
10      familiar with what that is?

11     A.       Yes.

12     Q.       What is that?

13     A.       State's Exhibit 23 is a copy of the  
14     Coroner's Verdict that is issued in every case by  
15     the coroner.

16     Q.       So that document -- was that document  
17     prepared by you?

18     A.       I'm sorry, what?

19     Q.       I turned my back on you, I apologize. Was  
20     that document prepared by you?

21     A.       It is actually prepared by the office. Once  
22     the autopsy is completed and signed out, the  
23     coroner prepares it and signs it. It is actually

1 prepared on the computer from the findings and he  
2 signs it.

3 Q. Now, Doctor, a couple of more questions  
4 before we get to the autopsy that you performed  
5 back in 1993. Let me ask you this: On average,  
6 and I don't know if you can give us a number,  
7 approximately how many autopsies do you perform in  
8 a year?

9 A. A year?

10 Q. Well, we can break it down. If you prefer  
11 to do it a month, you can tell me.

12 A. I prefer -- well that depends. Our job is  
13 kind of seasonal if you want to know the truth.  
14 We have many more autopsies around the summer and  
15 holidays, but the numbers can change, but the last  
16 time I counted I have performed over 8,000  
17 autopsies.

18 Q. And with respect to those autopsies, have  
19 you ever had an opportunity to testify in court?

20 A. Many times, yes.

21 Q. And can you put a number on it?

22 A. Hundreds.

23 THE COURT: Let me just interject

1           here. Who, in fact, is the coroner for Lucas  
2           County?

3                   THE WITNESS:     It is Dr. James Patrick.

4                   THE COURT:       Dr. Patrick. Okay. Thank  
5           you.

6                   MR. LOISEL:      Judge, at this time I  
7           would ask that Dr. Barnett --

8                   MR. WINGATE:     I'm sorry?

9                   MR. MCELROY:     We are sorry. Go ahead,  
10          Mike.

11                  MR. LOISEL:      -- be found to be an  
12          expert in the field of pathology.

13                  THE COURT:       No objection?

14                  MR. WINGATE:     No objection.

15                  THE COURT:       So ruled.

16                  MR. LOISEL:      Thank you.

17          Q.       Now, Doctor, can you explain to us, you did  
18          an autopsy on one Brenda Navarre back in 1993 of  
19          approximately December 3rd, correct?

20          A.       Correct.

21          Q.       And you had to review your notes to  
22          familiarize --

23          A.       Correct.

1 Q. -- yourself, correct?

2 Can you tell us first of all what you do  
3 when you perform an autopsy?

4 A. Basically an autopsy is divided into three  
5 parts. The first part of the autopsy is an  
6 external exam where all of the external surfaces  
7 of the body are viewed. Any injuries that have  
8 occurred are documented on that body diagram that  
9 I showed you, and we even document identifying  
10 marks like scars and tattoos and surgeries and  
11 anything that's seen externally, all of the  
12 injuries. Pictures are taken, clothed and  
13 unclothed.

14 And then when we finish that document,  
15 the internal portion of the autopsy begins and  
16 there is a Y shaped incision made. All of the  
17 internal organs are removed and examined  
18 individually. If there are any wounds or wound  
19 tracks involving the internal organs, those are  
20 all documented and photographed. And during that  
21 time we also sample body fluids for drugs and  
22 poisons and that's usually blood, urine, bile and  
23 gastric contents, if those are available.

1                   The last part of the autopsy, if  
2           necessary, it is not always necessary, we retain  
3           small pieces of tissue and we examine them under  
4           microscope.

5           Q.       And did you perform such an autopsy in this  
6           particular case?

7           A.       I did.

8                   MR. LOISEL:       And, Judge, may I  
9           approach?

10                  THE COURT:        Sure.

11           Q.       Doctor, I'm going to hand you what has  
12           previously been marked at State's Exhibit 16  
13           through 22. If you can just look at those for me,  
14           please.

15           A.       Yes.

16           Q.       Are you familiar with what those are?

17           A.       Yes.

18           Q.       And without going into detail, what do those  
19           pictures depict?

20           A.       These are actual autopsy photographs that  
21           depict Ms. Navarre's appearance at the Coroner's  
22           Office prior to the autopsy. It shows the  
23           external -- some of the external injuries, and

1       then also some of the internal injuries to the  
2       head.

3       Q.       And do those pictures appear to be, or are  
4       they in the same condition as they were when they  
5       were taken back in 1993?

6       A.       Yes, sir.

7               MR. LOISEL:       With that in mind, at this  
8       point, Judge, I'm going to direct the coroner --  
9       or the Deputy Coroner to refer to these exhibits  
10      which will be shown on the screen.

11              THE COURT:       All right.

12              MR. LOISEL:       And I want to caution you  
13      that some of these pictures are not very  
14      pleasant, but it has to do with respect to the  
15      autopsy as to what Dr. Barnett did back in 1993.

16              So, Doctor, I'm going to show you on the  
17      screen what's been marked as State's Exhibit 16.

18      Q.       You said you are familiar with that picture.  
19      What does that picture depict?

20      A.       That is the appearance of Ms. Navarre as she  
21      was received in our office. The placard across  
22      her chest is our autopsy from that year, which was  
23      61393. She is wearing a hospital gown still

1       because she has just come from the hospital after  
2       her death, and she still has in the breathing tube  
3       and the endogastric tube, those haven't been  
4       removed yet, but that's how she appeared when we  
5       received her.

6       Q.       And, Doctor, I will now show you what's been  
7       marked as State's Exhibit 17. Can you explain to  
8       us what that is?

9       A.       This is a close-up photograph of  
10       Ms. Navarre's face. Do you want me to start  
11       discussing the injuries or --

12       Q.       Yes. That was my next question. What is  
13       the significance of this photograph? What does it  
14       tell you?

15       A.       Do you happen to have a pointer?

16       Q.       I do not.

17               MR. LOISEL:       Would that aid you in your  
18       ability to describe --

19       A.       I guess I can go over there. I just didn't  
20       want to be in the way. All right. This is a  
21       close-up photograph, you're looking straight on to  
22       her face and you can see that she has a very long  
23       suture injury across the forehead. This at one

1       time when she arrived had been opened but they  
2       sutured it together, brought the skin margins  
3       together and you'll notice that there is a lot of  
4       abrasion around this wound. All this dark brown  
5       discoloration is where the skin was abraded. This  
6       laceration actually extends onto the upper eyelid  
7       where they've also sutured it and it is also  
8       abraded. Her eyes are very bruised and sort of  
9       protruding a little bit. This doesn't mean  
10      because her eyes are black that she was punched in  
11      her eyes, that's not what that means. But  
12      whenever you have an impact to the forehead, the  
13      blood can suffuse down into the eyelids and become  
14      very red and bruised but it is from a different  
15      mechanism. There is also an injury that -- oh.  
16      Okay. I can do that.

17               On this side of her head there were more  
18      injuries which extended actually on the left side  
19      which extended out over and into the ear and the  
20      ear had been sutured. It was also abraded on this  
21      area. I think we can go to the next one.

22      Q.       The next picture is State's Exhibit 18.

23      A.       Okay. Now you're looking at the right side



1 of her head and as you can see, there is a little  
2 bit of abrasion, a little bit of bruise. Some of  
3 these are actually paralleled so there's a little  
4 pattern to them, but nothing like the opposite  
5 side where there was more of an impact. So you  
6 have extensive injury to this side, you have  
7 extensive injury to this side. I believe this  
8 side of the head, which is pretty much spared of  
9 injury, was actually down on the ground, and this  
10 blood in her ear is just clotted blood that has  
11 come from a skull fracture which we'll talk about.

12 Q. I'll show you what's been marked as State's  
13 Exhibit 19.

14 A. Okay. Now you're looking at the front  
15 again. You can see that these abrasions extend  
16 out onto the cheek on both sides and actually this  
17 bone right here, your cheekbone, it is called your  
18 zygomatic arch, and it is Injury Number 25 on our  
19 protocol, was fractured, this whole cheekbone.

20 Q. And that's on the left side of her face  
21 you're indicating?

22 A. It is on the left side of the face, and  
23 unfortunately we don't have a good photograph on

1       the left side of her face, but this was all  
2       lacerated and abraded over the ear, and it looks  
3       just like this but on the side. I have it drawn  
4       on my body diagram, and so that was also sutured  
5       in here around the ear and in front of the ear.

6       Q.       Now, before we go to the next exhibit, which  
7       will take us into the internal aspect of the  
8       autopsy. You've just explained to us through  
9       pictures the injuries or the damage done to  
10      Ms. Navarre. What were your findings within your  
11      report without going into you said Number 25 on  
12      your report, can you tell us generally what you  
13      found when you did your external examination of  
14      her head?

15      A.       There were, I believe, 18 total injuries to  
16      the external surface of her body, but not all 18  
17      of them are just head. I believe that the last  
18      four or five of the 18 are random bruises on her  
19      legs and arms, but the majority of the injuries to  
20      the head go to Number 14. So, there's 14  
21      injuries, abrasions, lacerations like I've showed  
22      you that number up to 14.

23      Q.       And those are included within your report

1 and that's been previously marked, correct?

2 A. Correct.

3 Q. Thank you, Doctor. If we may go to the next  
4 exhibit. And then as you explained after you're  
5 done with an external autopsy, you do an internal  
6 autopsy, correct?

7 A. Correct.

8 Q. And before we get to State's Exhibit 20,  
9 describe what you do. You said you cut a V in  
10 their chest. What else do you do to get to the  
11 innards of someone to determine what their  
12 injuries are?

13 A. How do you get to the internal?

14 Q. Yes.

15 A. Through the Y shaped incision. You open the  
16 chest cavity, take off the sternum. The internal  
17 organs are removed. For the head you have to  
18 make, it's called an intermastoid incision. It  
19 goes from ear to ear and the scalp is reflected  
20 downward so that the skull is exposed and then we  
21 open the skull.

22 Q. And does that allow you then to do the  
23 internal autopsy?

1       A.       That allows you to see the inside of the  
2       skull, otherwise you would never get to the brain.

3       Q.       With that I would like you to take a look at  
4       State's Exhibit 20 and ask you to tell us what  
5       that depicts.

6       A.       You are looking at the top of the skull  
7       after it's been taken off, and you'll see that  
8       there's a V cut here. That's cut by us in order  
9       to lift the top of the calvarium off, but what  
10      you're seeing here is a depressed skull fracture  
11      and that is over the left side of your temple  
12      area. This is actually a pretty large depressed  
13      skull fracture.

14      Q.       And, Doctor, before -- I'm sorry to  
15      interrupt, but explain to us what a depressed  
16      skull fracture is.

17      A.       I was just about to do that.

18      Q.       Okay.

19      A.       When you have an impact, the skull sometimes  
20      gives and sometimes doesn't depending on your age,  
21      et cetera. Babies have more flexible skulls than  
22      adults obviously, but when there's an impact and  
23      the skull doesn't give, it causes -- it can cause

1 a skull fracture and there's a certain kind of  
2 fracture called a depressed fracture where the  
3 whole plate is pushed in. It fractures but it is  
4 also pushed in. This is actually a medical  
5 emergency because these people have to get to  
6 surgery very quickly because that changes the  
7 intracranial pressure inside your skull and can be  
8 very dangerous.

9 Q. And that's you indicated in the lower  
10 portion?

11 A. This is the depressed skull fracture right  
12 here, and that's on the left side in this area.

13 Q. Is there anything else significant about  
14 this particular exhibit?

15 A. No. It just -- this is hemorrhage, which  
16 would be the outer table of the skull where your  
17 muscle is. It is called subgaleal. The galeal  
18 tissue is the hemorrhage under the scalp -- tissue  
19 under the scalp.

20 Q. When you say hemorrhage, what does that  
21 mean?

22 A. Collection of blood.

23 Q. Next, Doctor, show you what's been marked as

1 State's Exhibit Number 21. Can you explain to us  
2 the significance of that photo?

3 A. Okay. You take that bone I just showed you  
4 that was sitting here, you take that off. You've  
5 taken the brain out. Now you're looking at the  
6 shelf, the bottom shelf of the skull where your  
7 brain sits. And the depressed skull fracture I  
8 just showed you would have been in this area.  
9 This is her left side, but what has happened is  
10 because you have an impact that came in this  
11 direction from the left, it sent the forces across  
12 the base of the skull, and so this is all  
13 fractured right here across the base like a  
14 clamshell. It is called a hinge fracture, like a  
15 clamshell. You could just go like this and it  
16 would open and close (indicating).

17 In addition there are fractures of this  
18 orbital plate where this is -- where your eyes are  
19 under here in this bony encasement and this is all  
20 fractured. So, she has what we call basilar, base  
21 of the skull, basilar skull fractures.

22 Q. And, finally, Doctor, I'm going to show you  
23 what's been marked as State's Exhibit Number 22.

1       What does that tell you?

2       A.       This is her left hand. She had an injury  
3       here that had been sutured and there's bruising  
4       around it. I can't tell you if that is a  
5       laceration or if it is a cut wound because now the  
6       edges have changed from the suturing, but it is a  
7       repaired injury.

8       Q.       And you indicated this is on her left hand?

9       A.       Yes.

10      Q.       I believe that's all the photos, Doctor, if  
11      you want to take a seat. Thank you.

12               Now, you indicated that there was a  
13      depressed skull fracture on the left side of  
14      Ms. Navarre's skull, correct?

15      A.       Correct.

16      Q.       Can you explain how people in general  
17      receive these types of injuries?

18      A.       The hinge fracture that we talked about, the  
19      clamshell, which goes across the base of the  
20      skull, we routinely see this injury in high speed  
21      automobile accidents when there's an acute impact  
22      and the head hits the side of the driver's window  
23      or door, and those forces go right across the base

1 of the skull. You have to have a lateral impact  
2 for a hinge.

3 Q. And, I'm sorry, I spoke with respect to the  
4 hinge fracture. Is there a general way that  
5 people can receive depressed skull fractures, or  
6 are they too numerous?

7 A. A depressed fracture is from any localized  
8 impact.

9 Q. And it could be from any object?

10 A. It could be from any object. When I say  
11 localized, I mean the majority of the pressure or  
12 the force is coming in one localized area, so that  
13 bone pushes in, but you can see it with many  
14 different kinds of weapons, I mean. . .

15 Q. Now, with respect to the injuries sustained  
16 by Brenda Navarre prior to her death, the photo  
17 when the original -- or first photos showed an  
18 injury to her forehead, is it evidence there was  
19 an impact on her forehead as well?

20 A. If that was only a split of the scalp from  
21 this impact, you wouldn't have abrasion around it.

22 Q. And abrasion means like the bruising and the  
23 redness?



1       A.       That dark (indicating), so this most likely  
2       is a second impact.

3               MR. LOISEL:       Judge, may I approach the  
4       witness?

5               THE COURT:       Sure.

6       Q.       Doctor, I'm going to show you what has been  
7       previously marked as State's Exhibit -- State's  
8       Exhibits 5, 7 and 8. Could you take a look at  
9       those for me, please.

10      A.       Okay.

11      Q.       And what do those photos depict?

12      A.       It looks like a boulder, rock, a big rock.

13      Q.       Now, have you ever seen that rock before?

14      A.       No.

15      Q.       You were just talking about the hinge  
16      fracture as well as a depressed skull fracture.  
17      Is it a possibility that an impact with a rock  
18      such as that could cause those injuries?

19      A.       Yes, but for a different mechanism.

20      Q.       Tell us, please.

21      A.       Remember when we just talked about the high  
22      speed automobile accident, the head hitting the  
23      inside of the door? Well, you would not get a

1 rock like this size at high speed, it would be  
2 impossible to throw this fast, but it is the sheer  
3 weight of it that does that kind of injury.

4 Q. So the injuries that you just described, are  
5 they consistent with being hit by a rock such as  
6 that size and nature?

7 A. It would be consistent with that, yes.

8 Q. And, Doctor, one final question, do you have  
9 an opinion within a reasonable degree of medical  
10 certainty as to the manner and means of  
11 Brenda Navarre's death?

12 A. Yes. It's my opinion that Brenda Navarre  
13 died of blunt force injuries of the head.

14 MR. LOISEL: Thank you, Doctor.

15 - - -

16 CROSS-EXAMINATION

17 BY MR. WINGATE:

18 Q. Good morning, Dr. Barnett.

19 A. Good morning, Mr. Wingate.

20 Q. How are you?

21 A. I'm pretty good. And you?

22 Q. Good to see you again. I'm doing all right.  
23 Few questions, not many. Okay?

1                   As it relates to your role as the  
2       forensic pathologist, in addition to conducting  
3       this examination, the forensic pathology exam,  
4       internal, external, you also collect evidence; is  
5       that correct?

6       A.       Collect evidence from the body, if it's  
7       there, yes.

8       Q.       And the evidence that you collect, you will  
9       then turn over to the police department or the  
10      investigating agency at that time?

11      A.       Yes, sir.

12      Q.       All right. And in this case on the day of  
13      the autopsy, you collected evidence consisting of  
14      rectal and vaginal swabs? You have to answer.

15      A.       I'm trying to find that page.

16      Q.       Page 5.

17      A.       Okay.

18      Q.       Rectal and vaginal swabs, underpants, blood  
19      sample; is that correct?

20      A.       Correct.

21      Q.       And you at that time of the autopsy gave it  
22      to Detective Chad Culpert?

23      A.       Yes, sir.

1 Q. And, of course, for the purposes of analysis  
2 or whatever they wanted to do with it as part of  
3 the investigation?

4 A. Correct. They usually request from me what  
5 evidence they want collected and I collect it.

6 Q. All right. I'm going to hand you -- may I  
7 see your autopsy first?

8 A. These are the State's exhibits.

9 Q. I'm handing you what's been marked for  
10 identification as State's Exhibit 15.

11 A. Yes.

12 Q. And that is also a part of your report; is  
13 that correct?

14 A. It is.

15 Q. And that is what?

16 A. This is actually two pages. It's both the  
17 antemortem and the postmortem toxicology report.

18 Q. All right. And on that you indicate -- let  
19 me see if we're on the same page. All right. On  
20 the first page of that two page report it  
21 indicates that autopsy findings, case history,  
22 head injuries, homicide, crack cocaine addict; is  
23 that correct?

1 A. Yes.

2 Q. And this was part of the findings?

3 A. This was the information that was supplied  
4 to us that she -- by the hospital and by the  
5 investigators, and so when I have a history of  
6 drug abuse, I try and include that on the  
7 toxicology report.

8 Q. One final question. Now, you indicated that  
9 you did give the evidence that you had obtained to  
10 a Detective Chad Culpert at the time of the  
11 autopsy, correct?

12 A. I did, and he gave me a receipt for it.

13 Q. Was he present during the entire autopsy  
14 from beginning to end?

15 A. Yes, because these are his pictures that  
16 he's -- part of the pictures we used are his  
17 pictures that he took.

18 MR. WINGATE: Okay. Nothing further.

19 THE COURT: Redirect?

20 - - -

21 REDIRECT EXAMINATION

22 BY MR. LOISEL:

23 Q. With respect to the toxicology report, I

1 believe it is State's Exhibit 15, what were your  
2 findings on that particular report with respect to  
3 Brenda Navarre?

4 A. The antemortem specimen, antemortem means  
5 before death. The blood specimen that they  
6 collected at the hospital, that one tested  
7 positive for benzoylecgonine. Benzoylecgonine is  
8 the primary metabolite of cocaine, which means  
9 that Ms. Navarre used cocaine 24 to 36 hours  
10 before her death, or before her admission I should  
11 say, and then the postmortem toxicology sample  
12 that I sent from my exam showed only the  
13 resuscitation drug lidocaine, and by that time the  
14 benzoylecgonine had already left her system.

15 Q. What does that indicate to you?

16 A. Well, you metabolize it, so after a while  
17 you won't see it anymore, but when she was  
18 admitted, she had used cocaine and still had the  
19 metabolite in her system.

20 Q. Now, did this benzoylecgonine in any way  
21 contribute to her death?

22 A. No.

23 MR. LOISEL: Thank you.

1                   MR. WINGATE:    I have nothing further.

2                   THE COURT:        Doctor, thank you very  
3                   much.   Call your next witness.

4                   MR. LOISEL:       Thank you, Judge.   At this  
5                   time the State calls Detective Bart Beavers.

6                   THE COURT:        Call Detective Beavers.

7                                   -   -   -

8                                   DETECTIVE ROBERT BEAVERS,  
9                   being first duly sworn by the Court, testified as  
10                  follows:

11                  THE COURT:        Please give us your name  
12                  and spelling of your name.

13                  THE WITNESS:     My first name is Bart,  
14                  B-A-R-T.   Last name is Beavers, B-E-A-V-E-R-S.

15                  THE COURT:        Thank you.

16                                  DIRECT EXAMINATION

17                  BY MR. LOISEL:

18                  Q.       Good morning, Detective.

19                  A.       Good morning, sir.

20                  Q.       Where do you work, Detective?

21                  A.       I'm employed by the City of Toledo.   I'm a  
22                  Toledo Police Officer.   I am a detective currently  
23                  with the Cold Case Unit.   I have 25 years of

1       experience.  Actually in about five days it will  
2       be 25 full years.  I worked initially for the  
3       first two or three years on the street and then I  
4       was assigned to the Vice Metro Unit for  
5       approximately eight years and then after that  
6       point I had been assigned to the investigative  
7       services or the adult investigations unit working  
8       crimes against persons, crimes against property,  
9       from theft cases to sexual assault cases, homicide  
10      cases.  I spent three years over at joint  
11      terrorism task force, working computer crimes  
12      unit, and most recently probably March of 2006  
13      I've been with the cold case homicide unit.

14      Q.     Now, Detective, with respect to, I've asked  
15      every police officer, what is your educational  
16      background before you joined the police  
17      department?

18      A.     Well, I have a high school diploma and I'm  
19      about 20 hours short of my bachelor's degree at  
20      Lourdes College.

21      Q.     And before you went to join the police  
22      force, did you go to the academy?

23      A.     I did.  I went through roughly a six month



1 training process through the Toledo Police  
2 Academy.

3 Q. And you indicated that you've had a number  
4 of positions during your tenure at the Toledo  
5 Police Department. Currently where are you  
6 assigned?

7 A. Currently assigned to the Cold Case Homicide  
8 Unit. There are three of us assigned.  
9 Sergeant Forrester is the supervisor of the unit,  
10 I'm the lone Toledo Police detective, and then  
11 there's also an investigator that works for the  
12 Lucas County Prosecutor's Office that is a retired  
13 Toledo Police detective and that would be  
14 Investigator Tom Ross.

15 Q. And you worked on this case involving the  
16 homicide of Brenda Navarre, correct?

17 A. Yes, I did.

18 Q. Can you explain to us when you began your  
19 involvement with this particular case?

20 A. My involvement, as I previously stated, it  
21 was about March of 2006 when I joined the unit and  
22 it was -- I had come from working a different  
23 shift in the Detective Bureau and I was asked by

1 Sergeant Forrester to go with him to interview  
2 Janet Wilson regarding a case that they had  
3 previously looked at and that would have been  
4 summer of 2006, July, August roughly.

5 Q. And did you have an opportunity to talk to  
6 Mrs. Wilson?

7 A. I did, yes.

8 Q. Was it the same Mrs. Wilson that testified  
9 yesterday?

10 A. That is correct.

11 Q. Did you talk to her?

12 A. I did. Sergeant Forrester and I had  
13 probably a half hour, 45 minute conversation with  
14 her.

15 Q. Do you recall where that took place?

16 A. That would have been her residence on South  
17 Street right near South and Reynolds.

18 Q. And this was the first contact you had with  
19 this case?

20 A. First contact I had, yes.

21 Q. And with respect to this particular case,  
22 obviously you're a member of the Cold Case Unit.  
23 Common sense would tell us that it is a cold case,

1 correct?

2 A. That is correct.

3 Q. Do you know when this case or when the  
4 homicide occurred?

5 A. That would have been December 1st. The  
6 actual offense occurred December 1st of 1993, and  
7 then she passed about a day later.

8 Q. And were you a part of that original  
9 investigation?

10 A. I was not.

11 Q. Do you recall where you were working in  
12 December of 1993?

13 A. I do. I was working -- in December of '93 I  
14 would have probably just left the Vice Unit and I  
15 was in some -- in a training course and working  
16 the crime analysis unit just before going to the  
17 Detective Bureau. So I worked 1985 to '93 in the  
18 Vice Metro Unit.

19 Q. You were in the Vice Metro Unit. You  
20 obviously heard the testimony of  
21 Detective Seymour, right?

22 A. I did, yes.

23 Q. He was familiar with Brenda Navarre. Were

1       you familiar with Brenda Navarre in the Vice Unit?

2       A.       I was not. I was -- I worked the day shift  
3       liquor and enforcement, anything that would happen  
4       during the day shift hours, not drug  
5       investigations at that time.

6       Q.       So you became involved in approximately you  
7       said May of 2006?

8       A.       It would have been the summer of 2006, July,  
9       August, in that time frame.

10      Q.       And did you have an opportunity when you  
11      became involved in this case to look at prior  
12      police reports involving the homicide of  
13      Brenda Navarre?

14      A.       I did. We have in the Cold Case Unit, we  
15      look at a lot of old cases. We have almost 300  
16      going back into the 1970's. So, we will take the  
17      case, look at the paperwork, the reports that were  
18      done, look at the evidence that we have just to  
19      get a feel because we weren't around in 1993 to  
20      conduct the investigation. So, we have to see how  
21      the investigation progressed and just generally  
22      learn about the facts of the case.

23      Q.       And did you do that with respect to this

1 case?

2 A. I did, yes.

3 Q. And were you able to look at old reports  
4 involving this particular case?

5 A. Yes, I did.

6 Q. With regard to those reports, to your  
7 knowledge were there any suspects back in 1993  
8 with respect to this murder?

9 A. There were a number of tips that came in in  
10 1993, Crime Stopper tips, tips that they would  
11 call the office and have -- you know -- be written  
12 down on a piece of paper and passed on to the  
13 investigator that got placed into the file. So,  
14 yes, there were several names and information that  
15 was received by the police department and the  
16 original investigators at that time.

17 Q. And after you had a chance to review that  
18 file, did anything pan out with respect to any of  
19 those tips back in 1993?

20 A. They did not.

21 Q. In fact, do you recall when this case was  
22 indicted?

23 A. This case was indicted October of 2006, I

1 believe.

2 Q. Now, you indicated that you talked to  
3 Brenda Navarre the summer of 2006. Explain --

4 MR. WINGATE: Objection.

5 Q. I'm sorry. I apologize. You talked to  
6 Janet Wilson --

7 A. Yes.

8 Q. -- not Brenda Navarre -- I'm sorry. I  
9 apologize -- in the summer of 2006.

10 What else did you do with respect to the  
11 investigation leading up to the indictment in this  
12 particular case?

13 A. Well, we -- obviously I took a look at the  
14 case file. We had other interviews with  
15 Janet Wilson with respect to this case. We talked  
16 to her sons, Alfonzo and -- Alfonzo Davis, Lamont  
17 Fonseca. I believe I talked to Lamont prior to --  
18 I definitely talked to Alfonzo at that time and we  
19 just -- I continued to look for evidence, look for  
20 -- you know -- and conduct those interviews.

21 Q. Now, with respect to looking for evidence,  
22 was there any evidence from the original  
23 investigation available to you in 2006?

1       A.       Unfortunately, no. When we went down to the  
2       property room where this evidence is maintained,  
3       the evidence that was originally taken in by  
4       detectives, including that large 110 pound rock  
5       had been destroyed and it was destroyed in  
6       February of 2006.

7               So, when I went down or Sergeant  
8       Forrester went down to look to see if there was  
9       any physical evidence stored in the property room,  
10      there was no indication. That evidence had been  
11      destroyed, so. . .

12      Q.      Did you investigate as to why it had been  
13      destroyed?

14      A.      I did.

15      Q.      And what did you find out?

16      A.      Well, the case was originally listed as a  
17      felonious assault. Typically if somebody -- if  
18      this is ruled a homicide in a relatively short  
19      period of time, the placard or the information  
20      that's contained on the evidence tags as well as  
21      the log that the property room carries is going to  
22      be listed as a homicide or a murder. In this  
23      case, the placard that was on the evidence that

1        was on the property room log indicated that it was  
2        a felonious assault.

3                So, the individual who went down to the  
4        property -- or originally handled the evidence  
5        from evidentiary standpoint was the one that  
6        actually destroyed the evidence, mistakenly  
7        thinking it was a felonious assault and not a  
8        homicide.

9                MR. WINGATE:    I will object as to what  
10       he thought.

11               THE COURT:       Sustained.

12       Q.       Nonetheless this evidence was no longer  
13       available for any testing or anything of that  
14       nature?

15       A.       No, no longer available.

16       Q.       Now, you indicated that you talked to  
17       Janet Wilson. Do you recall approximately how  
18       many times you talked to Janet Wilson?

19       A.       Personally, you know, I probably talked to  
20       her seven or eight times regarding the case, and  
21       matters specific to the case probably three or  
22       four times.

23       Q.       And with respect to those conversations that



1       you had with her pertaining to the case, were her  
2       statements to you consistent?

3               MR. WINGATE:     Your Honor, I'm going to  
4       object.   May we approach?

5               THE COURT:       Sure.

6               (WHEREUPON THE FOLLOWING DISCUSSION WAS  
7       HELD AT THE BENCH.)

8               MR. WINGATE:     First of all, we don't  
9       know what the statements were.   I think at this  
10      juncture he's calling upon this officer to  
11      substitute the opinion of the -- or from the  
12      jurors function by testing the credibility of a  
13      witness as far as asking whether or not these  
14      statements were consistent.   We don't have --  
15      have never seen the statements.   We don't know  
16      what they are, so I don't know how he could  
17      attest to statements being consistent when he's  
18      basically substituting his opinion for the role  
19      of the juror.   These are statements that no one  
20      else has heard, no one else will probably here in  
21      this case, so I think it is improper and it is  
22      misleading at this point.

23              MR. LOISEL:     Judge, I'm not trying to

1       substitute anything. He testified that he talked  
2       to a witness in the case three or four times  
3       pertaining to the facts surrounding the case.  
4       I'm just asking him if those conversation were  
5       consistent. I'm not asking him to get into any  
6       of the facts or surrounding those. Mr. Wingate  
7       can obviously cross him with respect to those  
8       conversations, if he so desires.

9               THE COURT:       Objection is overruled.

10              MR. WINGATE:    I don't know what the  
11       conversations were.

12              (WHEREUPON THE PRECEDING DISCUSSION AT  
13       THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS  
14       WERE HELD.)

15              THE COURT:       Overruled.

16       Q.       My question again with respect to the three  
17       or four conversations that you had with  
18       Janet Wilson pertaining to what happened back in  
19       1993, were her statements to you consistent?

20       A.       Yes.

21       Q.       And you obviously heard her testimony here  
22       in court, correct?

23       A.       Yes.

1 Q. Was her testimony consistent with what she  
2 told you during those three or four conversations?

3 A. Yes.

4 Q. At some point, Detective, did you become  
5 aware that there had been anal and vaginal swabs  
6 taken as just was referred to by the coroner?

7 A. Yes, I did.

8 Q. And when -- describe to us how you came to  
9 find that information out.

10 A. The regional crime lab that's housed in the  
11 Toledo Police Department is somewhat of a separate  
12 entity from the property room. The regional crime  
13 lab had a freezer down in the basement area that  
14 they had stored biological evidence, if you will,  
15 from various cases in that particular freezer.  
16 There was an audit that was conducted of that that  
17 we had -- that I had no idea that this particular  
18 evidence had existed.

19 So, once I took a look at this audit, I  
20 took a look at my active cases, and with this case  
21 being one of them, I noticed that there was an  
22 entry for a vaginal swab and anal swab and some  
23 blood standards.

1                   So, I went down to that freezer to take a  
2           look and see if, in fact, that was -- they don't  
3           log these -- they don't log that, at least they  
4           didn't at this time but that's changed at this  
5           time. They didn't log it in the property room or  
6           show up on the property room printout because the  
7           lab was separate.

8                   So, I went down to look to see what the  
9           disposition of that evidence was and it was not in  
10          the freezer. So, I checked with the crime lab and  
11          I found out that those particular items of  
12          evidence were signed out by my supervisor in 2005  
13          for this -- he had signed it out and placed it  
14          into a locked area. So, further investigation  
15          located those swabs as well as the blood  
16          standards.

17          Q.       And upon discovery and you finding these  
18          swabs and samples, what did you do at that point?

19          A.       Immediately contacted the Court and sent  
20          those standards -- or request for analysis down to  
21          BCI&I, their lab in Bowling Green, to have those  
22          analyzed.

23          Q.       And to your knowledge, were those samples

1 tested and analyzed?

2 A. They sent them on to North Carolina. North  
3 Carolina conducted a DNA analysis of those  
4 standards. Yes, they were analyzed.

5 Q. And with respect to the vaginal swabs, do  
6 you know if it matched the standards sent to them  
7 of the Defendant?

8 A. They did not. The vaginal swabs indicated  
9 the presence of an unknown male DNA and it was not  
10 Robert Wilson.

11 MR. LOISEL: Juge, may I approach?

12 THE COURT: Sure.

13 Q. Now, Detective, I'm going to hand you what's  
14 been marked as State's Exhibit 24 and 25. I  
15 believe there is a stipulation as to their  
16 authenticity with respect to what these are.

17 Can you just look at them? First,  
18 Exhibit 24, without telling us what's contained in  
19 that report, do you know what that is?

20 A. It is a certificate of analysis supplied to  
21 me from LabCorp. Actually it was supplied to  
22 BCI&I and it was forwarded to me, a copy was  
23 forwarded to me regarding the analysis of the

1 swabs and standards that we submitted.

2 Q. And when you say LabCorp, is that the lab in  
3 North Carolina that you were previously referring  
4 to?

5 A. Yes, that's correct.

6 Q. And if you could, what is State's Exhibit  
7 25?

8 A. State's Exhibit 25 is a report from BCI that  
9 indicates that the evidence was submitted, and I'm  
10 referring evidence as to the rectal, vaginal, and  
11 DNA standards of the victim and Mr. Wilson and  
12 taken by our lab personnel on February 6th, 2008.

13 Q. As I said, you've obviously been here for  
14 the testimony, are you aware of any Crime Stopper  
15 money that was given in this particular case?

16 A. Yes, I am.

17 Q. And do you know when that money was issued  
18 and to who it was issued to?

19 A. The money was issued October of 2006 and the  
20 money was issued to Janet Wilson.

21 Q. And with respect to Crime Stopper in  
22 general, when is money given to individuals, or  
23 for what reason? I'm sorry.

1       A.       Money is given to individuals for providing  
2       information that leads to the arrest of somebody  
3       that committed the crime.

4       Q.       And do you know how much was given and to  
5       whom?

6       A.       \$5,000 dollars was given to Janet Wilson.

7       Q.       And now you indicated also that you had some  
8       conversations with I believe Lamont Fonseca and  
9       Alfonzo Davis; is that correct?

10      A.       Yes.

11      Q.       And who is Lamont Fonseca?

12      A.       Lamont Fonseca is Janet Wilson's son.

13      Q.       And you were here for Alfonzo Davis's  
14      testimony, correct?

15      A.       I was.

16      Q.       And was his testimony consistent with the  
17      conversation that you had previously had with him?

18               MR. WINGATE:    Again, we're going to  
19      object.

20               THE COURT:       I'm going to allow it.

21      A.       Yes.

22               MR. LOISEL:     Thank you, Detective.

23      Nothing further.

1                   THE COURT:       Cross -- let me stop you  
2       here. Does the jury want to take a break, 15  
3       minute break? Okay. Let's -- before we get to  
4       the cross-examination, let's take a 15 minute  
5       recess. Members of the jury, do not talk to  
6       anyone about the case and do not form or express  
7       an opinion about the case. Court is in recess.

8                                   (RECESS TAKEN.)

9                                   CROSS-EXAMINATION

10       BY MR. WINGATE:

11       Q.       Good morning, Detective Beavers.

12       A.       Good morning, Mr. Wingate.

13       Q.       You became involved in this case summer June  
14       or July of 2006?

15       A.       That is correct.

16       Q.       As part of the cold case file; is that  
17       correct?

18       A.       Yes, as a result of my assignment to the  
19       Cold Case Unit, yes.

20       Q.       And I think you indicated that you,  
21       Detective Forrester and Tom Ross?

22       A.       Yes.

23       Q.       That would be the retired detective who



1 works with the Prosecutor's Office?

2 A. Yes.

3 Q. Comprised this Cold Case Unit?

4 A. Yes.

5 Q. All right. And Detective Forrester is also  
6 in charge of the Crime Stopper program?

7 A. Yes, it is actually sergeant. He is my boss  
8 and part of his duties include Crime Stopper  
9 program.

10 Q. And he was serving in that capacity at that  
11 time?

12 A. He was, yes.

13 Q. And he was the one that authorized \$5,000  
14 dollars be paid to Janet Wilson?

15 A. Actually the Crime Stopper board authorizes  
16 the money to be paid.

17 Q. And you heard Janet Wilson say that he was  
18 told -- that she was told I can give you 50 crisp  
19 \$100 dollar bills by Detective Forrester; do you  
20 recall that?

21 A. Yes.

22 Q. And that's what she was paid, wasn't she?

23 A. That is correct.

1 Q. Now, in your involvement in this case you  
2 indicated that you had an opportunity to look at  
3 police reports to see how the investigation  
4 progressed. You looked at that report, you went  
5 over the Crime Stopper reports relative as to your  
6 participant as investigator in this homicide of  
7 Brenda Navarre; is that correct?

8 A. Yes, that is correct.

9 Q. And in that -- and the Crime Stopper reports  
10 came in over a period of two or three years after  
11 the homicide in '93?

12 A. Well, the majority of them came in, you  
13 know, within a close proximity date wise of when  
14 the homicide occurred, but they continued to  
15 trickle in, yes.

16 Q. And inasmuch as the majority of them came in  
17 within a short period of time of the homicide, you  
18 received a description of the suspect being 6'1,  
19 6'2, didn't you?

20 MR. LOISEL: Objection, Your Honor,  
21 hearsay.

22 Q. I'll ask the question a different way. In  
23 the review of your reports, did you come across a

1 description of the individual as being 6'1 or 6'2?

2 A. There were varying reports, some of which  
3 said 6'1, 6'2.

4 Q. Did any ever say anything under six feet?

5 MR. LOISEL: Objection, Your Honor, it  
6 is hearsay.

7 MR. WINGATE: I'll rephrase the  
8 question.

9 Q. Did you come across anything in your reports  
10 indicating less than six feet tall?

11 MR. LOISEL: Objection, hearsay.

12 THE COURT: I'm going to allow it.

13 A. I would have to review the reports, but I --  
14 each individual Crime Stopper I don't know what  
15 the descriptions were. There were some that said  
16 six foot, 6'1. If there were any less, I don't  
17 recall.

18 Q. Let me just ask this --

19 A. Okay.

20 Q. -- set aside the Crime Stopper reports for  
21 right now. Talking about the police reports you  
22 reviewed. Did you get any police report -- did  
23 you review any police report wherein you had a

1 description of this individual, this suspect being  
2 less than 6'1?

3 MR. LOISEL: Objection, Your Honor. It  
4 is hearsay. He's trying to get to the truth of  
5 the matter asserted as someone else stated.

6 THE COURT: This is part of his  
7 investigation and part of his protocol in the  
8 investigation. I think it is appropriate,  
9 overruled.

10 A. Yes, the initial reports listed 6'1, six  
11 foot, 6'1.

12 Q. Now, I understand that. But this is my  
13 question: Did you ever get anything indicating  
14 less than 6'1, 6'2? That's what I'm asking.

15 A. Yes.

16 Q. All right. You got reports saying how tall  
17 was the individual?

18 A. Saying -- I'm sorry. I don't understand the  
19 question.

20 Q. I guess what I'm asking you is this: Do you  
21 have any police reports -- did you review as part  
22 of your protocol any of the police reports which  
23 indicated that the suspect was less than 6'1 or

1 6'2?

2 A. Yes.

3 Q. All right. And what was the height?

4 A. The height would have been, once we received  
5 the information from Janet Wilson in 2003 and I  
6 was reviewing those reports, those were less than  
7 six.

8 MR. LOISEL: Judge, if he could finish  
9 the answer to the question.

10 Q. Okay. Now -- okay. You want to talk about  
11 Janet Wilson. You're talking about -- what  
12 reports are you talking about relative to  
13 Janet Wilson?

14 A. When Janet Wilson came to the police and  
15 stated that Robert --

16 Q. Hold on.

17 A. I'm sorry.

18 Q. Thank you very much. Gave a statement.

19 A. When Janet Wilson gave a statement and  
20 Robert Wilson was listed as a suspect at that  
21 time, the reports that show when you run  
22 through -- when you look at an individual and  
23 there are that individual's height/weight

1 characteristics are known to be less than six  
2 foot, 6'1.

3 Q. Well, let me just ask this. Okay?

4 A. Okay.

5 Q. Now, let's talk about before you talk to  
6 Janet Wilson was 2006, right?

7 A. That's when I talked to Janet Wilson, yes.

8 Q. All right. Now, what I'm asking you about  
9 was the Crime Stopper reports and the police  
10 reports prior to Janet Wilson, because we're going  
11 to get to Janet Wilson.

12 A. Okay.

13 Q. And your answer is there were no reports  
14 indicating that the suspect was less than 6'1 or  
15 6'2; is that correct?

16 A. Prior to 2003, yes.

17 Q. Right. Prior to 2003. And that would have  
18 been with Janet Wilson, and those reports came  
19 from people who actually saw the assailant, didn't  
20 it?

21 A. They came from the original people that were  
22 at the original scene, yes.

23 Q. People who saw the assault?

1                   MR. LOISEL:       Objection, Your Honor.

2           This is hearsay.  He's getting into statements of  
3           other individuals.

4                   THE COURT:       I'm going to sustain that.  
5           That assumes facts not in evidence.

6           Q.     Did you review a report of an alleged  
7           eyewitness indicating the height of the  
8           individual, 6'1, 6'2?

9           A.     Yes.

10          Q.     Okay.  You talked to Odett Scott --

11          A.     I did, yes.

12          Q.     -- correct?

13                   You talked to Lisa Mays who was with her  
14          also, correct?

15          A.     I did not know.

16          Q.     You reviewed a report of Lisa Mays who was  
17          with Odett Scott; is that correct?

18          A.     Yes, that's correct.

19          Q.     All right.  Let's just talk about  
20          Mrs. Wilson.  You say you generally had seven,  
21          eight conversations with her; is that correct?

22          A.     Approximately, yes.

23          Q.     And you had three or four whereby you talk

1       about a statement; is that correct?

2       A.       Either a full statement or portions thereof,  
3       yes.

4       Q.       Okay. And let me just say this, let's just  
5       lead up to that. All right?

6               Janet Wilson would tell you something and  
7       say I'm not going to cooperate; is that correct?  
8       She would go back and forth?

9               MR. LOISEL:     Objection, Your Honor,  
10       hearsay.

11              MR. WINGATE:    She testified.

12              MR. LOISEL:    He's asking about  
13       out-of-court statements and the truth of their  
14       matter asserted.

15              MR. WINGATE:    Your Honor, Mrs. Wilson  
16       testified as to her relationship with the police,  
17       Your Honor.

18              THE COURT:     I'm going to allow some  
19       leeway here.

20              MR. WINGATE:    All right.

21       Q.       She would vacillate on whether she was going  
22       to cooperate, was not going to cooperate; is that  
23       correct?



1 A. Yes.

2 Q. All right. Say she was -- say she's not  
3 going to do it; is that correct?

4 A. Yes.

5 Q. As a matter of fact, she indicated at one  
6 point I'm not testifying, didn't she?

7 A. Yes.

8 Q. And she was arrested and charged with  
9 obstructing justice; is that correct?

10 A. That's correct, yes, sir.

11 Q. All right. And prior to that, prior to that  
12 day that she was arrested, Mrs. Wilson had  
13 contacted the Court complaining about Toledo  
14 Police and you were ordered to have no contact  
15 with her; is that correct?

16 MR. LOISEL: Objection, Your Honor.  
17 Objection, Your Honor.

18 THE COURT: Wait a minute. Can I see  
19 Counsel up here?

20 (WHEREUPON THE FOLLOWING DISCUSSION WAS  
21 HELD AT THE BENCH.)

22 THE COURT: First of all, what's your  
23 objection.

1 MR. LOISEL: Judge, first of all it is  
2 irrelevant. Second of all, it is hearsay. He's  
3 trying to get in information through this witness  
4 of what Janet Wilson did or didn't do in  
5 contacting the Court. That's hearsay as to what  
6 Janet Wilson did or did not say or talked to the  
7 Court.

8 MR. MCELROY: What she did is not  
9 hearsay, Judge.

10 THE COURT: That's what I understand.

11 The conduct is not hearsay.

12 MR. LOISEL: He's asking her did she  
13 contact the Court complaining about Toledo Police  
14 Officers harassing her. That goes directly as to  
15 what her statement is and truth of the matter  
16 asserted, out-of-court statement.

17 MR. MCELROY: It is not offered for  
18 truth. It is matter for impact.

19 THE COURT: I'm going to overrule your  
20 objection. I'm going to advise Mr. Wingate, you  
21 may be opening some doors here. You should be  
22 careful.

23 MR. WINGATE: Okay. I intend to, Your

1 Honor.

2 THE COURT: All right.

3 (WHEREUPON THE PRECEDING DISCUSSION AT  
4 THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS  
5 WERE HELD.)

6 BY MR. WINGATE:

7 Q. Did you hear my question?

8 A. No. I'm just waiting for your question.

9 Q. All right. I thought -- my question is  
10 simply this: As a result of a phone call by  
11 Janet Wilson, Toledo Police were ordered to have  
12 no contact with Janet Wilson; is that correct?

13 A. I don't think that was the verbiage that was  
14 used in the order.

15 Q. All right. Let's change the verbiage a  
16 little bit.

17 Toledo Police ordered not to have any  
18 contact with Janet Wilson, nor Defense Counsel?

19 A. Yes.

20 Q. Both of us, both sides ordered to have no  
21 contact with Janet Wilson, correct --

22 A. Yes.

23 Q. -- as a result of police -- her phone call

1 complaining about police officers, correct?

2 A. I don't know if that was as a result of  
3 that.

4 Q. I understand that. And the same day that  
5 you -- that that order was issued to have no  
6 contact with her, Janet Wilson was arrested?

7 A. She was arrested that afternoon, yes.

8 Q. After she left the courthouse and went to  
9 work?

10 A. That is correct, sir.

11 Q. Now, as it relates to your investigation,  
12 and you did tell the Prosecutor that you know it  
13 was an going investigation and the investigation  
14 continued. Did you come across a report prior to  
15 Janet Wilson indicating that a possible eyewitness  
16 recognized the voice of the assailant?

17 MR. LOISEL: Objection, Your Honor.  
18 Hearsay.

19 THE COURT: This is cross-examination.  
20 I'm going to allow it.

21 A. Yes.

22 Q. What follow up was done relative to that?

23 A. It was -- again, at that time it wasn't my

1 case.

2 Q. All right. But you've subsequently looked  
3 over the file and I think you indicated that you  
4 saw how the -- saw how the investigation  
5 progressed; isn't that what you told the  
6 Prosecutor?

7 A. Yes.

8 Q. All right. So, as it relates to a potential  
9 witness recognizing the voice of the assailant of  
10 Mrs. Navarre, was there any indication that that  
11 was followed up on?

12 A. No, sir.

13 Q. As a matter of fact, there was a name given  
14 to that voice?

15 MR. LOISEL: Objection, Your Honor.

16 May we approach?

17 MR. WINGATE: I'll rephrase the  
18 question. Let me rephrase it.

19 THE COURT: All right.

20 Q. Did the reports that you reviewed, and I'm  
21 not asking the name, the reports that you reviewed  
22 relative to recognizing the voice also indicate a  
23 name?

1 A. Yes, it did.

2 Q. All right. It wasn't Robert Wilson, was it?

3 A. It was not.

4 Q. And no follow up on that investigation?

5 A. I can't say there was no follow up done.

6 There was no report that indicated that there was  
7 follow up.

8 Q. All right. As it relates to that night, did  
9 you review or report indicating that a van had  
10 been stopped, a suspect van had been stopped?

11 MR. LOISEL: Objection, Your Honor.

12 THE COURT: If this witness knows, he  
13 can testify.

14 Q. Did you review a report?

15 A. Was there a report that indicated that?  
16 Yes.

17 Q. All right. And within that van, bloody  
18 sweater was located. Did you run across a report  
19 indicating that?

20 A. Yes.

21 Q. Same report, isn't it?

22 A. Yes, sir.

23 Q. As a result of you seeing how the

1 investigation progressed, was there any follow up  
2 on that?

3 A. The bloody sweater was submitted to the lab  
4 for analysis.

5 Q. And do you have an analysis?

6 A. We do not.

7 Q. Do you know if Mrs. Navarre was wearing a  
8 sweater that night?

9 A. I don't know.

10 Q. And because of there being no analysis, you  
11 cannot say whether this was or was not her sweater  
12 or was or was not evidence of that incident; is  
13 that correct?

14 A. I could not say that, yes.

15 Q. Now, in your investigation or your  
16 involvement in this case, did you come across a  
17 report and specifically the one involving  
18 Roger Craig who testified here?

19 A. Uh-huh.

20 Q. And it indicated felonious assault charge,  
21 and detectives on the scene, and evidence  
22 technician on the scene, Cashen, Koury, Sergeant  
23 Dunham and Culpert. Did you come across that

1 report?

2 A. Yes.

3 Q. All right. So that report will indicate  
4 that Mr. Culpert was there -- or  
5 Detective Culpert, Chad Culpert was there at the  
6 scene when the body was located, correct?

7 A. Yes.

8 Q. Similar to the first?

9 A. Well, I think the body was already at the  
10 hospital but he was at the scene.

11 Q. And it was called a felonious assault at  
12 that time; is that correct?

13 A. It was, yes.

14 Q. All right. And you heard the testimony  
15 of -- I'm sorry -- Dr. Barnett indicating the  
16 evidence that she took from the body of  
17 Brenda Navarre was given to Chad Culpert. You  
18 heard that testimony?

19 A. Yes, sir.

20 Q. That is the same Chad Culpert that was at  
21 the scene, felonious assault?

22 A. Yes, sir.

23 Q. All right. And inasmuch as he's there and



1       you saw the photographs where the skull, the scalp  
2       was pulled back, the skull is open, the brain  
3       removed, would it be fair to say that Mrs. Navarre  
4       was now a homicide, not a felonious assault?

5       A.     At what point? I'm sorry.

6       Q.     At the point he's getting the evidence from  
7       the autopsy.

8       A.     No, sir -- oh, from the autopsy?

9       Q.     Yes.

10      A.     Yeah, that would be correct, yeah.

11      Q.     And that would be on December the 2nd, 1993?

12      A.     I believe so, yes, sir.

13      Q.     The date of the autopsy?

14      A.     Uh-huh.

15      Q.     And the Chad Culpert at the scene taking  
16      photographs, felonious assault, the Chad Culpert  
17      that received the evidence from Dr. Barnett at the  
18      autopsy is the same Chad Culpert that ordered the  
19      destruction of the evidence; is that correct?

20      A.     Yes, that's correct.

21      Q.     And as far as Mr. Wilson is concerned, there  
22      could have been fiber evidence or trace evidence  
23      on the clothes, on the boulder which could have

1 shown whether he did or did not have anything to  
2 do with this offense; is that correct?

3 A. Yes, sir, could have been evidence on the  
4 boulder and clothing.

5 Q. And that's gone?

6 A. Yes, that is gone.

7 Q. But by the same token, from the State's  
8 points of view evidence which could corroborate or  
9 indicate that he may have had something to do with  
10 this is gone; is that correct?

11 A. That is correct.

12 Q. And would it be fair to say that when you  
13 started receiving -- I'm sorry -- the Crime  
14 Stopper reports that you received indicated  
15 potential suspect dropped a rock on her head. Did  
16 you come across Crime Stopper reports that said  
17 that?

18 A. Some did, yeah.

19 Q. And this would have been prior to 2003 when  
20 you talked to Janet Wilson; is that correct?

21 A. Yes.

22 Q. And when Janet said that she had heard on  
23 the streets what had happened to Janet Wilson,

1       that would be -- I'm sorry -- when she --

2               When Janet Wilson testified that she had  
3       heard on the streets what had happened to  
4       Brenda Navarre, that would be consistent with the  
5       Crime Stopper reports that you reviewed prior to  
6       talking to Janet Wilson; is that correct?

7       A.       It is a long question.

8       Q.       Well, you want me to rephrase it?

9       A.       Okay.

10      Q.       Okay. Janet Wilson said -- made a statement  
11      to you; is that correct?

12      A.       Yes.

13      Q.       All right. And you said she testified  
14      consistent; is that correct?

15      A.       Yes, sir.

16      Q.       You got Crime Stopper reports saying that a  
17      rock was dropped on her head; is that correct --

18      A.       That's correct.

19      Q.       -- prior to you talking to Mrs. Wilson, the  
20      dates on these Crime Stopper reports?

21      A.       Yes, that's correct.

22      Q.       All right. And all I'm saying is her saying  
23      to you that she had heard in the streets what had

1       happened to Brenda Navarre, that would be  
2       consistent with the Crime Stopper reports that you  
3       received prior to talking to her indicating what  
4       had happened to Janet -- to Brenda Navarre,  
5       correct?

6       A.       With respect to a rock being dropped on her  
7       head, yes.

8       Q.       Okay. And let me just ask this: In one  
9       of -- did you come across a Crime Stopper report  
10      which -- let me rephrase that.

11               Did you review Crime Stopper reports more  
12      than one implicating at least one individual?

13      A.       Yes.

14      Q.       It wasn't Robert, was it?

15      A.       That's correct.

16      Q.       Was there follow up on that?

17      A.       Yes.

18      Q.       And what follow up was done?

19      A.       There was follow up at the time that -- at  
20      least in one of the instances that facts that were  
21      portrayed weren't consistent with what had  
22      occurred, but there was follow up also done by  
23      myself and Investigator Ross where we interviewed

1       that individual and an individual that was  
2       supposedly with him that day.

3       Q.       And you're talking specifically about  
4       Scottie Burrell?

5       A.       Scottie Burrell, yes, sir.

6       Q.       What about Andre Munn?

7       A.       I'm not aware of that.

8       Q.       Aware of follow up?

9       A.       The follow-up, no. I'm not saying that  
10       there wasn't any done, but I'm not -- I didn't do  
11       the follow-up on Andre Munn.

12       Q.       Right. And --

13               MR. LOISEL:       Objection, Your Honor.

14       May I see what he's handing the witness?

15               THE COURT:       Sure.

16       Q.       And I've marked it up, but I'm handing you  
17       Crime Stopper report, see if that was one of the  
18       reports that you reviewed. And I'll refer you to  
19       the second page.

20       A.       Yes, I'm familiar with all of the pages.

21       Q.       All right. And so would you agree with me  
22       that you had one Crime Stopper report of a  
23       particular individual that his name had come up on

1 several occasions; is that correct?

2 A. Yes.

3 Q. All right. What investigation was done  
4 relative to that individual --

5 A. Well.

6 Q. -- if you know?

7 A. Well, the -- again, the reports that I  
8 reviewed may not be indicative of the  
9 investigation that was done and could be testified  
10 to by others that completed that investigation.

11 Q. All right.

12 A. Okay.

13 Q. So, then, in other words, if that was the  
14 perpetrator of the crime, to the best of your  
15 knowledge, no investigation has incurred or any  
16 follow up occurred based upon what you have?

17 A. The reports -- based on the reports.

18 MR. LOISEL: Objection, Your Honor.  
19 This calls for speculation.

20 THE COURT: I'm going to sustain that.  
21 That's too far.

22 MR. WINGATE: All right.

23 Q. Are you aware of any follow up based upon

1       that Crime Stopper report of that particular  
2       individual?

3       A.       Solely based on the reports, no.

4       Q.       Okay. Now, as it relates to -- and as you  
5       reviewed the Crime Stopper reports itself,  
6       information may come in and the information is  
7       graded on a scale of 1 to 10; is that correct?

8       A.       The value of the information is graded on a  
9       scale of 1 to 10.

10      Q.       Thank you. And, again, it's scaled on how  
11      helpful the information may or may not be to the  
12      investigation; is that correct?

13      A.       Well, that --

14                   MR. LOISEL:       Objection, Your Honor. If  
15      I may see what he's referring to. Judge, can we  
16      approach?

17                   THE COURT:        Sure.

18                   (WHEREUPON THE FOLLOWING DISCUSSION WAS  
19      HELD AT THE BENCH.)

20                   MR. LOISEL:       Judge, renew my objection  
21      with respect to hearsay. This essentially is  
22      double hearsay. He's handing him reports of  
23      another officer who is relating information from

1           a third individual. He can ask him if he's  
2           familiar with these reports and what they say,  
3           but he hands them to him. He's asking him to  
4           look at double hearsay. It is not his report.  
5           If he wants to call the officer who authored  
6           these reports, that is the proper way to get the  
7           information not through a third party.

8                   MR. WINGATE: I'm not trying to get the  
9           information in. I'm trying to find out about the  
10          grading of information that's provided. He's  
11          indicating he looked over it and I'm asking him  
12          specifically the phrase says, On the below scale,  
13          how helpful was this Crime Stopper information to  
14          the investigation. I'm asking about not how  
15          helpful it was, but is he aware of the scale, the  
16          grading scale of the information that's --

17                   THE COURT: You've already established  
18          that information. That's sustained.

19                   MR. WINGATE: All right.

20                   (WHEREUPON THE PRECEDING DISCUSSION AT  
21          THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS  
22          WERE HELD.)

23                   THE COURT: Sustained.



1 Q. Now, you testified that the information that  
2 comes in is graded on a scale as to how helpful it  
3 may be to the investigation?

4 MR. LOISEL: Objection, Your Honor. It  
5 is asked and answered.

6 MR. WINGATE: This is a preparatory  
7 question.

8 THE COURT: Overruled.

9 A. Based on the -- yes, based on the value of  
10 the information received.

11 Q. Did you come across in your investigation  
12 any information that was rated at least a five on  
13 a scale of one to ten?

14 A. Possibly. I haven't I'm not familiar with  
15 that specific Crime Stopper.

16 Q. There was some you didn't review?

17 A. I reviewed them but there were several Crime  
18 Stoppers, I can't remember all of them.

19 Q. Okay. I understand. Would you or did you  
20 consider follow up on information that was rated  
21 five or above helpful?

22 A. Without seeing the specific Crime Stopper, I  
23 can't say.

1 Q. I'm going to hand you what's been marked as  
2 State's Exhibit -- I'm sorry -- Crime Stopper  
3 report.

4 MR. LOISEL: Objection, Your Honor,  
5 this is hearsay. It goes directly to the issue.

6 THE COURT: I'm going to sustain it.  
7 This is hearsay on hearsay.

8 MR. WINGATE: Your Honor, may we  
9 approach? That is not what it is being offered  
10 for.

11 THE COURT: I'm going to sustained the  
12 objection. He can testify to the grading system  
13 and that's as far as you can go.

14 MR. WINGATE: That's all I'm asking.

15 THE COURT: You've already established  
16 that.

17 MR. WINGATE: All right.

18 Q. Now, as far as a grading system or five of  
19 five or above, do you know if any of the Crime  
20 Stopper reports that had a grading of five or  
21 above were followed up on?

22 MR. LOISEL: Objection, Your Honor. It  
23 has been asked and answered.

1                   THE COURT:       If the witness knows, he  
2       can answer.   If he doesn't, he doesn't.

3       A.       I don't know.

4       Q.       You don't know?

5       A.       No.

6       Q.       All right.   So then when you say that you  
7       looked at prior police reports, Crime Stopper  
8       reports to see how the investigation progressed,  
9       five or above, you don't know what happened with  
10      those?

11      A.       That's correct.

12      Q.       And that's a pretty strong rating on a scale  
13      of five to ten, isn't it -- on one to ten?   I'm  
14      sorry.

15      A.       Again, it is determined on the individual  
16      Crime Stopper.

17      Q.       I understand that, but as an investigating  
18      detective, scale of one to ten, one is low, ten is  
19      the highest and you have reports where there is a  
20      five.   Okay?

21      A.       That --

22      Q.       That would be something you want to follow  
23      up on, isn't I?

1       A.       That five is assigned or determined on the  
2       form by the investigating detective at that time.  
3       I wasn't the investigating detective. He put that  
4       five down, therefore, he's the one that determines  
5       the amount of investigation that goes into that.

6       Q.       And I don't dispute that, but now I'm asking  
7       Detective Bart Beavers if you rate the information  
8       you received on a scale of one to ten as a five,  
9       that would be something you would want to follow  
10      up on, wouldn't it?

11      A.       Well, my five might be different than your  
12      five. There's no set --

13      Q.       You're misunderstanding me. Okay? Forget  
14      about me or forget about whoever set that five.  
15      I'm talking about Detective Bart Beavers received  
16      information about a homicide rated a five. Is  
17      that something you would not follow up --

18                   MR. LOISEL:       Objection, Your Honor.

19                   THE COURT:        This is getting too far  
20      afield. Sustained.

21      Q.       As it relates to Janet Wilson, did you  
22      follow up on information that she provided you?

23      A.       Yes.

1 Q. And as it relates to this case, no physical  
2 evidence whatsoever to corroborate what she said,  
3 correct?

4 A. Correct.

5 Q. Just her word?

6 A. Yes.

7 Q. And as far as her word, you heard her from  
8 this witness stand say some of it was true, some  
9 of it was a lie as far as her statement to me,  
10 correct?

11 A. Are you referring to a statement to you?

12 Q. Yes.

13 A. Yes.

14 Q. And you also heard her say that she told me  
15 that she took the information that she heard from  
16 the street, made up some stuff to convince the  
17 detectives. Did you hear her say that from that  
18 witness stand under oath?

19 A. I did.

20 MR. WINGATE: Just one second, Your  
21 Honor. I may be finished.

22 Q. Detective Beavers, did you in your role as  
23 investigator in this case in reviewing the reports

1       and the Crime Stopper receive -- review any  
2       reports of possible suspects who were also drug  
3       dealers?

4       A.       Yes.

5       Q.       More than two or three?

6       A.       I can't say that, but there were some that  
7       were drug dealers.

8       Q.       And in all of the Crime Stopper reports that  
9       you received, none ever included the name of  
10      Robert Wilson, did it?

11               MR. LOISEL:       Objection, Your Honor.  
12      That goes to hearsay.

13               MR. WINGATE:     I'll rephrase it a  
14      different way.

15      Q.       Based upon your review of all the Crime  
16      Stopper reports, did you see the name of  
17      Robert Wilson?

18               MR. LOISEL:       Objection, Your Honor.  
19      Still hearsay. He's going to the truth of the  
20      matter asserted.

21               THE COURT:        No. I'm going to allow  
22      it.

23      A.       Yes.

1 Q. All right. Would you like to show me the  
2 report?

3 A. Uh-huh.

4 MR. WINGATE: Your Honor, could I have  
5 just one second, please?

6 THE COURT: Do you want to show it to  
7 Mr. Loisel?

8 MR. WINGATE: Oh, yeah.

9 MR. LOISEL: I'm aware of it.

10 Q. Detective Beavers, all of the Crime Stopper  
11 reports that you had in this case provided to the  
12 State of Ohio, is that correct, as part of the  
13 investigation, you gave to the Prosecutor; is that  
14 correct?

15 A. Yes.

16 Q. All right. And pursuant to the rules of  
17 discovery that you're aware of, they were given to  
18 me?

19 A. Yes.

20 Q. This report you did not turn in until  
21 Tuesday of this week; is that correct?

22 MR. LOISEL: Your Honor, that has no  
23 relevance as to when this was turned over to the

1 Defense Attorney. It was turned over to the  
2 Defense Attorney.

3 THE COURT: I'm going to allow it.

4 Q. This report was not given to the State to  
5 give to Defense Counsel until Tuesday?

6 A. The report was referenced in my supplemental  
7 report and the report was given to Mr. Loisel at  
8 his request and it was given to you on Tuesday,  
9 yes.

10 Q. That's the only time it was given, right?  
11 And could I see your supplemental report that you  
12 indicate it was referenced to?

13 A. Yes, Page 2. It is under evidence.

14 MR. WINGATE: Your Honor, could we have  
15 just one second? Your Honor, could we approach?

16 (WHEREUPON THE FOLLOWING DISCUSSION WAS  
17 HELD AT THE BENCH.)

18 MR. WINGATE: This is what I'm having a  
19 problem with (indicating).

20 THE COURT: Okay. I understand. All  
21 right.

22 MR. LOISEL: Judge, if we may,  
23 depending on what the question is, what was or



1           was not provided in discovery is not an issue for  
2           this jury to determine. It is not for their  
3           consideration. If Mr. Wingate has an issue with  
4           respect to discovery, he needs to talk to the  
5           Bench about it. He just can't put it out in  
6           front of the jury. There are rulings and  
7           regulations that go along with discovery. If he  
8           thinks the State violated those rules, that is  
9           not for consideration in this trial. It is not  
10          evidence in this trial.

11                   THE COURT:       He can inquire of this  
12          witness whatever he knows. Facts are facts, you  
13          know.

14                   MR. LOISEL:     Well, I understand.  
15          That's fine, but I'm going to --

16                   THE COURT:       Okay.

17                   (WHEREUPON THE PRECEDING DISCUSSION AT  
18          THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS  
19          WERE HELD.)

20          Q.       I'm sorry. Could I see the entire report  
21          that you've referenced? Maybe I just need the  
22          front page. All right. Now, this report that  
23          you're saying this page --

1 A. Yes.

2 Q. -- where you reference the report is dated  
3 11-6-06; is that correct?

4 A. Yes.

5 Q. November the 6th of 2006, you've referenced  
6 this police report?

7 A. Could I see the report just to make sure of  
8 my dates?

9 Q. Yes.

10 A. That was the date I typed the report,  
11 11-6-06.

12 Q. And that is the date that you referenced  
13 that Crime Stopper report; is that correct?

14 A. In that section, yes.

15 Q. All right. And it wasn't given to --

16 MR. LOISEL: Objection, Your Honor. It  
17 goes -- may we approach?

18 THE COURT: No. I'm going to allow  
19 this question. Overruled.

20 Q. You gave it to the Prosecutor, who in turn  
21 gave it to me on Tuesday, September the 2nd?

22 A. Is that a question?

23 Q. Yes.

1 A. Yes.

2 Q. So, for over a year you've had this report?

3 A. I've had it, yes.

4 Q. And when all of the other references from  
5 Crime Stopper never mentioning Mr. Wilson were  
6 turned over, this one you maintained?

7 A. Apparently the Prosecutor didn't get it the  
8 first time, so he called and asked for the report.  
9 It wasn't anything intentional, but he did not  
10 have the report.

11 Q. I'm not saying it was intentional. Okay?

12 A. Okay.

13 Q. I'm saying that you maintained it until  
14 September the 2nd.

15 A. I did.

16 Q. Would it be fair to say that you took the  
17 time to go through all of the reports, police  
18 reports, Crime Stopper reports and you turned  
19 those over to the Prosecutor, everything but one?

20 A. That I know of. It was inadvertent.

21 Q. Did I give you the report back?

22 A. Yes.

23 Q. Let me see that for a second. And without

1 saying what that report said, that Crime Stopper  
2 is not consistent with the facts of the homicide  
3 of Brenda Navarre, is it?

4 A. That is correct.

5 Q. Just one second. I may be finished.

6 MR. WINGATE: Nothing further.

7 THE COURT: Redirect.

8 MR. LOISEL: Thank you.

9 - - -

10 REDIRECT EXAMINATION

11 BY MR. LOISEL:

12 Q. Detective, there's obviously a lot to talk  
13 about these tips. With respect to Crime Stopper  
14 tips, is it a challenge as a cold case detective  
15 to try to resurrect old cases?

16 A. Yes.

17 Q. And with respect to cold cases, in general,  
18 are there other tips in cold cases?

19 A. Yes.

20 Q. And with respect to tips in cold cases and  
21 cases that happen now, do tips always pan out?

22 A. No.

23 Q. Sometimes do tips give you good information?

1 A. Sometimes, yes.

2 Q. What kind of other information can tips give  
3 you?

4 A. They can give us information not only who  
5 committed the crime, but who may be witnesses to  
6 the crime, where evidence may be found as far as  
7 location of where evidence or a body in a case of  
8 a homicide. So, there are a lot of different  
9 types of information that tips will give us.

10 Q. And is the information always relevant?

11 A. No.

12 Q. Sometimes do the tips have nothing to do  
13 with the actual event that they are trying to tip  
14 on?

15 A. Actually the majority of the tips  
16 unfortunately are that.

17 Q. What do you mean "are that"?

18 A. Are tips that may not be relevant, that  
19 people may read something in the paper and give  
20 information based on what they hear or see on the  
21 street. It is information that can't be  
22 substantiated.

23 Q. Now, with respect to this investigation,

1 Mr. Wingate asked you a number of questions about  
2 the tips, and did you review them from the  
3 original investigators. Do you remember that line  
4 of questioning?

5 A. Yes.

6 Q. And to your knowledge did that investigator  
7 follow up on any and all information that he had  
8 at the time?

9 A. There were Crime Stopper disposition forms  
10 with the majority of the tips, yes.

11 Q. And if you know, as a result of all of those  
12 tips and the information and the follow-up, was a  
13 suspect developed back in the 1990's?

14 A. No.

15 Q. So what conclusion does that lead you to?

16 A. That the investigator back in the 1990's did  
17 not develop a good suspect on the homicide of  
18 Brenda Navarre.

19 Q. Let's jump forward to this tip that  
20 Mr. Wingate is talking about. Did that tip give  
21 you any pertinent information with respect to this  
22 investigation?

23 A. No. The tip itself had case facts that were

1 not even close to being consistent with the  
2 homicide that occurred.

3 Q. So, that in a long line of other tips were  
4 relatively useless?

5 A. Correct.

6 Q. That tip didn't lead you to the Defendant,  
7 did it?

8 A. No.

9 Q. What did?

10 A. Janet Wilson.

11 Q. Finally, with respect to these reports and  
12 the tips and the investigation that preceded back  
13 in the 1990's, specifically 1993 forward, did you  
14 author any of those reports?

15 A. From '93 --

16 Q. To 2006 when you came on this case.

17 A. I did not.

18 Q. So the information, whatever it may have  
19 been, you were not privy to, correct?

20 A. Correct. That's correct.

21 Q. You -- had you gotten the information, you  
22 may have proceeded differently possibly, correct?

23 A. Every investigator has their own style, yes.

1 I possibly could have proceeded in a different  
2 fashion.

3 Q. Just a couple of other things. Do recall  
4 the line of questioning with respect to  
5 Mr. Wingate and there was a court proceedings  
6 where you were ordered along with the State of  
7 Ohio and Defense Counsel not to have any contact  
8 with Janet Wilson? Do you recall that line of  
9 questioning?

10 A. I do, yes.

11 Q. And Mr. Wingate asked you, in fact, you had  
12 contact with her later that day when she was  
13 arrested, correct?

14 MR. WINGATE: I would object. I did not  
15 ask that question. I asked was she arrested.

16 THE COURT: I recall that question.

17 MR. WINGATE: I asked was she arrested.

18 Q. Do you recall that line of questioning?

19 A. That she was arrested, yes.

20 Q. If you're aware, did Attorney Wingate  
21 violate that order and contact Janet Wilson?

22 MR. WINGATE: I'm going to object and  
23 ask that we approach.



1 MR. LOISEL: He opened the door, Judge.

2 MR. WINGATE: Mike, you know -- may we  
3 approach, Your Honor?

4 THE COURT: Come on up.

5 (WHEREUPON THE FOLLOWING DISCUSSION WAS  
6 HELD AT THE BENCH.)

7 MR. WINGATE: First of all, I have never  
8 implied that he violated anything. What she had  
9 said on the witness stand was that she was  
10 threatened.

11 MR. LOISEL: Judge --

12 THE COURT: The testimony was that the  
13 marshals arrested her, so I don't know if this  
14 witness had any contact. I don't recall any  
15 testimony about that.

16 MR. LOISEL: Well, I apologize. I  
17 think -- I thought that there was.

18 MR. WINGATE: No.

19 THE COURT: He didn't say he did.  
20 They arrested her, so I'm going to sustain the  
21 objection.

22 (WHEREUPON THE PRECEDING DISCUSSION AT  
23 THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS

1           WERE HELD.)

2                   MR. WINGATE:     Sustained, Your Honor?

3                   THE COURT:       Sustained.

4       Q.       And in addition to -- I'm going back and  
5       jumping around a little bit -- all these tips,  
6       Mr. Wingate asked you about a van and bloody  
7       sweater, correct?

8       A.       Yes.

9       Q.       With respect to your review of the  
10      information in this investigation, did that bloody  
11      sweater or any investigation into the bloody  
12      sweater or the van help you develop any suspects  
13      with respect to the homicide of Brenda Navarre?

14      A.       The reports from the investigation back then  
15      do not indicate that it helped develop any  
16      suspects.

17                   MR. LOISEL:     If I may just have a  
18      moment, Judge.

19      Q.       Mr. Wingate asked you also about  
20      Chad Culpert and the destruction of evidence,  
21      correct?

22      A.       Yes.

23      Q.       If you had your way, would you like to have

1       that evidence still available to you?

2       A.       Absolutely, yes, I would.

3       Q.       Why?

4       A.       Because there's the ability through new  
5       sciences, DNA, and the applicability to law  
6       enforcement and our investigations to obtain DNA  
7       from, for example, the rock or touch DNA from the  
8       clothing. That would be something that we would  
9       really like to have.

10      Q.       And as Mr. Wingate said, possible evidence  
11      from the evidence that had been destroyed could  
12      either implicate the Defendant or vindicate him,  
13      correct?

14      A.       Yes, that's correct.

15      Q.       But it is not available to us?

16      A.       That is correct, not available.

17      Q.       And finally, Mr. Wingate asked you with  
18      respect to your conversations with Janet Wilson,  
19      that aside from her work, she has nothing else to  
20      corroborate what she told you; do you remember  
21      that question? I believe it was a question in  
22      that realm.

23      A.       Aside from her word?

1 Q. Yes.

2 A. I thought you said work.

3 Q. Her word.

4 A. No. That's not correct. The statement that  
5 her son Alfonzo Davis made to me corroborated what  
6 she told me.

7 Q. And Brenda Navarre is dead, correct?

8 A. Yes, that's correct. And the information  
9 that she provided me was consistent with the facts  
10 that I know of the crime.

11 MR. LOISEL: Thank you, Detective.

12 Nothing further.

13 - - -

14 RECROSS EXAMINATION

15 BY MR. WINGATE:

16 Q. First question I have is this: You say the  
17 son corroborated the information what  
18 Janet Wilson --

19 THE COURT: Did you hear.

20 Q. Did you hear Janet Wilson -- I'm sorry --  
21 Alfonzo testify from that seat that you're seated  
22 in and say I don't know if Robert told me or my  
23 mom told me. Did you recall her saying that --

1 him saying that?

2 A. Yes.

3 Q. All right. So, if she told him that, would  
4 you agree with me, common sense and reason if he  
5 repeats what she says, corroborates what she said?

6 A. Also said what Robert told him.

7 MR. WINGATE: Your Honor, I'll ask that  
8 that response be stricken as non-responsive.

9 Q. My question to you --

10 MR. LOISEL: Is there a ruling?

11 THE COURT: I believe it was  
12 responsive. Overruled.

13 Q. All right. Did you hear him from the  
14 witness stand -- I understand what you're saying.  
15 The question I'm asking you is did you hear him  
16 from that witness stand under oath say both to me  
17 and to the Prosecutor that I don't know whether it  
18 was my mother or Robert that said these things; do  
19 you recall that?

20 A. I recall that, yes, sir.

21 Q. You recalled in the police report he says  
22 that his mother told him those things; do you  
23 recall that?

1       A.       His mother did tell him those things.

2       Q.       All right.  So then for you to sit here and  
3       say that he corroborated what she said, common  
4       sense and reason would say if she's the source and  
5       he repeats it --

6               MR. LOISEL:       Objection.  Calls for  
7       speculation.

8               THE COURT:       It is argumentative.  
9       Sustained.

10      Q.       As it relates to the Prosecutor talking  
11      about good Crime Stopper reports, bad Crime  
12      Stopper reports, and you said the majority of the  
13      tips are not -- may not be relevant; is that  
14      correct?

15      A.       That is correct.

16      Q.       All right.  But in this particular case you  
17      had Crime Stopper reports that at least mentioned  
18      one name on several occasions; is that correct?

19      A.       Yes.

20      Q.       You had police reports that gave you a  
21      height and a name of a potential suspect; is that  
22      correct?

23      A.       Actually I reviewed reports that did that,

1       yes.

2       Q.       Yes. And to the best of -- and we're  
3       talking about through the 1990's, to the best of  
4       your knowledge, none of these were followed up on;  
5       is that correct?

6       A.       I can't say that.

7       Q.       All right. Can you say they were?

8       A.       I can say that I looked at reports that  
9       indicated that some were followed up on and the  
10      disposition formed, and others silent on, but I  
11      did not conduct those investigations.

12      Q.       And the one -- I know you didn't conduct the  
13      investigations, but he asked you about the 1990's  
14      and whether or not a suspect was developed. You  
15      had names and descriptions and you can't say  
16      whether these reports were followed up on or not?  
17      That's what I'm asking.

18      A.       Collectively I can't say that.

19      Q.       All right. And as a matter of fact, you  
20      even had one that had a voice recognition and --

21              MR. LOISEL:     Objection, Your Honor.

22              This goes beyond the scope.

23              THE COURT:       I'm going to sustain it.

1 Q. As it relates to the van with the bloody  
2 sweater, you said that didn't generate anything,  
3 any follow up; is that right?

4 A. There was a submission to the lab of that  
5 bloody sweater. There's no response to -- or  
6 there was no written response to that submission.

7 Q. So would you agree with me then at that  
8 point the ball was dropped in that case?

9 A. I can't say that. I don't know what the  
10 investigators did at that time. No, as far as the  
11 reports were concerned.

12 Q. It is 15 years later, do you have anything  
13 in that file indicating that there was a follow up  
14 with an analysis and a result taken as a result of  
15 the request for an analysis of that bloody  
16 sweater?

17 A. I do not have that result.

18 Q. Although there was a request; is that  
19 correct?

20 A. Yes, that's correct.

21 Q. And so when you tell the Prosecutor that in  
22 1990 you had no suspects, you did have suspects?

23 MR. LOISEL: Objection, Your Honor, he



1        didn't do anything.

2 THE COURT: Sustained.

3 Q. Let me rephrase. In the 1990's when you say  
4 no suspects were developed, the reports that you  
5 have indicate that there were suspects; is that  
6 correct?

7           A.       The Crime Stopper reports indicates  
8       suspects, yes.

9 Q. And police reports?

10           A.     Yes.

11 MR. WINGATE: Nothing further.

12 THE COURT: Any redirect?

13 MR. LOISEL: Just one moment, Judge.

14 Nothing further, thank you, Judge.

15 THE COURT: Thank you officer.

16 THE WITNESS: Thanks, Judge.

17 THE COURT: Who is your next witness?

18 MR. LOISEL: Judge, I believe we can  
19 probably have a relatively short witness.

20 THE COURT: All right. Just take one  
21 more witness and then we'll recess for the  
22 morning.

23 MR. LOISEL: Your Honor, at this time

1 the State calls Detective Lou Vasquez.

2 THE COURT: Call Detective Vasquez.

3 - - -

4 SERGEANT LOIS VASQUEZ,

5 being first duly sworn by the Court, testified as  
6 follows:

7 THE COURT: Be seated here, sir.

8 Please give us your name and spelling of your  
9 name.

10 THE WITNESS: Lou Vasquez,  
11 V-A-S-Q-U-E-Z.

12 THE COURT: Thank you.

13 DIRECT EXAMINATION

14 BY MR. LOISEL:

15 Q. Afternoon, sir. Can you -- still morning  
16 but it is almost there. Can you introduce  
17 yourself to us, please?

18 A. I'm Lou Vasquez. I'm a sergeant with the  
19 Toledo Police Department and I work investigative  
20 services on the midnight shift.

21 Q. I called you detective. Explain to us,  
22 Sergeant, what are your duties presently?

23 A. I supervise the detectives, person

1       detectives on the night shift. We handled all the  
2       shootings, murders, homicides, home invasions,  
3       burglaries, anything that happens on the midnight  
4       shift.

5       Q.       Now, just by way of background, how long  
6       have you been a member of the Toledo Police  
7       Department?

8       A.       I'm in my 37th year.

9       Q.       And I don't want to go through all 37 years,  
10      but can you briefly tell us the different areas  
11      you've worked in the police department?

12      A.       Well, I've worked patrol, I worked the  
13      Communications Bureau and spent most of my career  
14      working the Metro Drug Task Force.

15      Q.       And when did you finish with that portion of  
16      your career?

17      A.       Approximately eight years ago.

18      Q.       And what did you do after that?

19      A.       And then worked communications for a few  
20      years and then went into investigative services.

21      Q.       Where you are currently?

22      A.       Yes.

23      Q.       And with respect to your duties as a Toledo

1 Police Officer, did you ever have contact with  
2 Janet Wilson regarding the homicide of  
3 Brenda Navarre?

4 A. Yes, I did.

5 Q. Can you explain to us without going into  
6 detail when that contact first happened?

7 A. Well, back in June of 2005, I was involved  
8 in an investigation involving her grandson who was  
9 a victim of a robbery. At that time she owned a  
10 bar at the corner of Central and Isabella and her  
11 grandson was robbed in front of that bar.

12 Q. And so you had contact with her?

13 A. Yes, she came in with her grandson during  
14 that investigation and more or less for emotional  
15 and moral support for her grandson.

16 Q. And did you talk to her then? How did the  
17 homicide of Brenda Navarre come to light?

18 A. Well, shortly thereafter she called me on  
19 the phone and told me that.

20 MR. WINGATE: I will object.

21 THE COURT: Yeah, sustained.

22 Q. Without telling us what she said, when is  
23 the next time you had contact with her?

1 A. A few days later.

2 Q. And what was it regarding?

3 A. In regards to the murder of Brenda Navarre.

4 Q. And how did this communication take place?

5 A. Over the phone.

6 Q. And did you talk to her about the  
7 Brenda Navarre homicide?

8 A. Yes, I did.

9 MR. WINGATE: Your Honor, I will object.

10 THE COURT: Well, that's a proper  
11 question, but that's about as far as without  
12 going into the merits of that conversation.

13 MR. LOISEL: Of course.

14 Q. You did talk to her about the homicide of  
15 Brenda Navarre?

16 A. Yes.

17 Q. And let me ask you this: How many  
18 conversations -- well, did you have any more  
19 conversations with her regarding the homicide of  
20 Brenda Navarre?

21 A. About a dozen conversations.

22 Q. And if you can recall the -- if you can  
23 recall the specifics, where did these

1       conversations take place?

2       A.       Well, some of them were over the phone, some  
3       of them were at her bar. She owned another bar  
4       called Brewski's on North Detroit. We had  
5       conversations there, and then some of them were in  
6       person where I would meet her on the street.

7       Q.       And, again, without getting into the  
8       specifics of these conversations, what did they  
9       revolve around?

10      A.       Around the homicide of Brenda Navarre.

11      Q.       And at some point did you have a  
12      conversation with her at the 212 or at the Toledo  
13      Police Department across the street?

14      A.       Yes, I did.

15      Q.       And who was present for that conversation,  
16      if you recall?

17      A.       Well, it was myself and I believe  
18      Investigator Tom Ross and Bart Beavers --  
19      Detective Bart Beavers.

20      Q.       And I don't want to sound redundant, but  
21      what did that conversation revolve around?

22      A.       The murder of Brenda Navarre.

23      Q.       And was there anyone else at that

1 conversation in June of 2005 aside from the people  
2 that you just mentioned?

3 A. No.

4 Q. And just one final question, Detective.  
5 With respect to these conversations, were they  
6 consistent with the first contact you had until  
7 the last contact you had with Janet Wilson?

8 A. Yes, the story was always the same.

9 MR. LOISEL: Thank you, Detective.  
10 Nothing further.

11 MR. WINGATE: Just one second, Your  
12 Honor.

13 - - -

14 CROSS-EXAMINATION

15 BY MR. WINGATE:

16 Q. Just a couple of questions,  
17 Sergeant Vasquez. The first bar you indicated  
18 that she owned a Brewski's bar; is that correct?

19 A. That's correct.

20 Q. Does she still own it?

21 A. No.

22 Q. Having financial problems?

23 A. That's correct.

1 Q. Okay. And she was paid \$5,000 dollars to  
2 appear before the grand jury; is that correct?

3 MR. LOISEL: Objection, Your Honor.  
4 She did not get paid \$5,000 dollars to appear  
5 before the grand jury. That is a  
6 mischaracterization of the evidence.

7 THE COURT: Sustained.

8 Q. Prior to her being offered 50 crisp \$100  
9 dollar bills, did she appear before the grand  
10 jury?

11 MR. LOISEL: Objection, Your Honor.  
12 This witness doesn't even know if she was offered  
13 that money. He was not able to respond.

14 THE COURT: He can ask and the witness  
15 can answer.

16 A. I don't know anything about what she was  
17 paid or the series of evidence on --

18 Q. Let me stop you. But you do know she was  
19 paid?

20 A. No, I don't.

21 Q. You don't know that?

22 A. No.

23 Q. All right. And as it relates to the first



1 conversation in '05, wasn't until October,  
2 November of '06; is that correct, before she went  
3 before the grand jury?

4 A. I don't recall when she went to the grand  
5 jury.

6 Q. Well you know it wasn't in '05, correct?

7 A. That's correct.

8 Q. And you know it wasn't in the first six  
9 months of '06?

10 A. That's correct.

11 Q. And you do know that Steve Forrester,  
12 Sergeant Steve Forrester is in charge of the Crime  
13 Stopper program?

14 A. Yes.

15 Q. And he is the individual that can allocate  
16 money or dispense money to individuals?

17 A. Yes.

18 Q. And he was involved in conversations with  
19 Mrs. Wilson; is that right?

20 A. Yes.

21 Q. And conversations prior to her appearing  
22 before the grand jury?

23 A. I don't know the sequence of events there,

1       sir.

2                   MR. WINGATE:     All right.   Nothing  
3       further.

4                   THE COURT:       Anything else?

5                   MR. LOISEL:     No, Judge.   Thank you.

6                   THE COURT:       Thank you very much.   You  
7       are excused.   Can I see Counsel up here?

8                   (WHEREUPON A DISCUSSION AT THE BENCH WAS  
9       HELD OFF THE RECORD.)

10                  THE COURT:       All right.   Ladies and  
11       gentlemen of the jury, at this time we'll take  
12       the noon recess.   We'll reconvene these  
13       proceedings at 1:15.   Again, do not discuss this  
14       case among yourselves, nor with anyone else.   Do  
15       not form or express an opinion about the case  
16       until the case has been submitted to you.   We'll  
17       be in recess.

18                               (LUNCH RECESS TAKEN.)

19                   (WHEREUPON THE FOLLOWING DISCUSSION WAS  
20       HELD OUTSIDE THE PRESENCE OF THE JURY.)

21                  THE COURT:       All right.   We're in  
22       chambers ready to commence this afternoon's  
23       session.   And, Mr. Loisel, I understand that you

1 have a motion or want to rest; is that correct?

2 MR. LOISEL: Judge, at this point after  
3 having an opportunity to look through, and I'll  
4 do this obviously in open court, but there's some  
5 motions and procedural things that need to go on,  
6 but, yes, at this point the State intends to rest  
7 and I didn't know if the Court wants to address  
8 motions subject to the admittance of the State's  
9 Exhibits I believe 1 through 23.

10 THE COURT: Well, let's go through  
11 the exhibits first. Do you want to get your  
12 list? All right. Going through what I have is  
13 we have State's Exhibit 1 is a picture of the  
14 scene that was testified to by Detective Niemiec.  
15 Is there going to be an objection to that?

16 MR. WINGATE: No.

17 MR. LOISEL: It is Officer Niemiec,  
18 correct, that's who you're referring to as  
19 sergeant.

20 THE COURT: Yeah.

21 MR. LOISEL: Okay.

22 THE COURT: Exhibit 2 are various  
23 pictures that were testified to by

1           Officer Malone. 2 through 11, are there going to  
2           be objections to those exhibits?

3                   MR. WINGATE: 7, 8 and 9 are photographs  
4           just of the rock on the hand truck or -- yeah,  
5           the hand truck I think they call them. I would  
6           object on the grounds of duplicity and one would  
7           be sufficient. No objection to 2 through 6.

8                   MR. LOISEL: Judge, I would just  
9           indicate, and I can look at the actual exhibits,  
10          the purpose for their admission is to show  
11          different --

12                   THE COURT: As I recall the testimony  
13          of the witness, he indicated these were various  
14          views, so I don't believe even if they are  
15          duplicative, I don't believe they're prejudicial  
16          and I'll allow them in.

17                   Next we have State's Exhibit 12 are  
18          statements. Is that Mr. Davis's statement?

19                   MR. WINGATE: No, I don't think he was  
20          going to admit that, although he had it marked.  
21          It is a police report.

22                   MR. LOISEL: Yes, that's what it is.  
23          It is Detective Beavers' report.

1                   THE COURT:       Which included a statement  
2       that Mr. Davis had made?

3                   MR. LOISEL:     Correct. We would  
4       withdraw it at this time, Judge.

5                   THE COURT:     All right. Exhibit 12  
6       will be withdrawn. 13 through 22, 13, 14 and 15  
7       are various reports of Doctor --

8                   MR. WINGATE:   Barnett.

9                   THE COURT:     -- Barnett. Any  
10      objection?

11                  MR. WINGATE:   To 12 -- 13, 14, 15?

12                  THE COURT:     Right.

13                  MR. WINGATE:   No objection.

14                  THE COURT:     And then pictures 16  
15      through 22 are various autopsy reports and  
16      photos.

17                  MR. WINGATE:   We would maintain our  
18      objection previously that is the prejudicial  
19      effect outweighs any probative value, and I think  
20      it is prejudicial against the Defendant  
21      Mr. Wilson, so we would object to those.

22                  THE COURT:     Your objection is noted  
23      and overruled. Exception noted. Those will come

1 in.

2 MR. LOISEL: Just so we're clear,  
3 Judge, weren't those previously admitted this  
4 morning?

5 THE COURT: That is correct. Your  
6 objection is restated again.

7 MR. WINGATE: Yes.

8 THE COURT: And ruling is reaffirmed.  
9 State's Exhibit 23 is the Coroner's  
10 Verdict. Any objection?

11 MR. WINGATE: No objection.

12 THE COURT: 24 is the certificate of  
13 analysis by the lab.

14 MR. WINGATE: No objection.

15 THE COURT: And 25 is the report from  
16 BCI.

17 MR. WINGATE: No objection.

18 THE COURT: I believe that's all the  
19 State's exhibits; is that correct?

20 MR. LOISEL: Yes, Judge.

21 THE COURT: Are you going to be  
22 resting at this time?

23 MR. LOISEL: Yes, Judge.

1                   THE COURT:       Okay.   State rests.   Any  
2                   motions?

3                   MR. WINGATE:    Yes, Your Honor.   We would  
4                   make a Rule 29 motion indicating at this juncture  
5                   it is incumbent upon the State of Ohio in viewing  
6                   the light most favorable to the State to  
7                   introduce evidence whereby reasonable minds could  
8                   conclude that Mr. Wilson is guilty of this  
9                   offense of murder that is purposely causing the  
10                  death of Ms. Brenda Navarre.   I believe the State  
11                  failed to meet that burden based on the evidence  
12                  adduced, and I would ask the Court for judgment  
13                  of acquittal, directed verdict.

14                  THE COURT:       Mr. Loisel.

15                  MR. LOISEL:     Judge, I think with  
16                  respect to the Rule 29 motion, as Mr. Wingate  
17                  indicated, it has to be thought about in the  
18                  light most favorable to the State.   The State has  
19                  to put on a prima facie case with respect to this  
20                  Defendant's guilt.   I believe there's enough  
21                  testimony and evidence put in front of this jury  
22                  where reasonable minds could differ and allow  
23                  them to consider the evidence, therefore, I think

1 the Rule 29 motion should be denied.

2 THE COURT: Certainly a lot of this  
3 evidence would be characterized as  
4 circumstantial, but I believe there's enough at  
5 this point to go to the jury on a prima facie  
6 basis, so I'm going to allow the case to go to  
7 the jury at this point and the motion is  
8 overruled but the exception is noted. Are you  
9 ready to go?

10 MR. WINGATE: Yes.

11 THE COURT: You have any witnesses?

12 MR. WINGATE: Could you give us maybe  
13 about five minutes? We need to confer, could we  
14 go back outside?

15 THE COURT: Sure.

16 (OFF THE RECORD.)

17 MR. WINGATE: Back on the record.

18 THE COURT: Back on the record.

19 MR. WINGATE: Your Honor, I would --  
20 I'll indicate pursuant to discussions with  
21 Mr. Wilson and co-counsel, Mr. McElroy, we will  
22 not be presenting any evidence and we'll renew  
23 our motion for a Rule 29 judgment of acquittal.



1           I'll indicate whereas the State correctly  
2       stated that it was the State should at least  
3       present a prima facie case relative to the  
4       evidence in this matter, and that the -- at the  
5       close of its case, that is the burden; however,  
6       at the close of the entire case with the Defense  
7       aspect and us not presenting any evidence, the  
8       burden now rises to proof beyond a reasonable  
9       doubt. I think at this juncture based upon the  
10      evidence that has been adduced from this witness  
11      stand that the State had not met its burden  
12      whereby reasonable minds could conclude beyond a  
13      reasonable doubt that Mr. Robert Wilson is guilty  
14      of murder, that is purposely cause the death of  
15      Brenda Navarre, and as such ask the Court for  
16      Rule 29, judgment of acquittal.

17           MR. LOISEL:     Judge, at this point the  
18      State does not have to prove the case beyond a  
19      reasonable doubt. We have to be able to submit  
20      to the jury for their deliberation to decide  
21      whether it is proven beyond a reasonable doubt.  
22      With that in mind we ask that this motion be  
23      denied.

1                   THE COURT:        I think the jury is going  
2                   to have to make that determination as to whether  
3                   proof beyond a reasonable doubt has been attained  
4                   or not.  I'm going to overrule your motion at  
5                   this point and we'll let the jury deal with it.  
6                   How are we fixed for argument at this point?  And  
7                   instructions, have you had an opportunity to --

8                   MR. LOISEL:       Judge, I don't know if  
9                   Ms. Johnson has had an opportunity to.

10                  THE COURT:        She gave me a rough draft.  
11                  Do you want to take a look at it and see if  
12                  you --

13                  MR. LOISEL:       As I stated earlier,  
14                  Judge, and I think obviously everyone has their  
15                  own input.  I would prefer to get this case to  
16                  the jury today.  I know that they would be able  
17                  to at least hear closing arguments.  I don't know  
18                  what Defense Counsel's thoughts are, but if an  
19                  acceptable rendition of the jury instructions can  
20                  be put together in a reasonable amount of time, I  
21                  don't know why we couldn't proceed today with  
22                  closing.

23                  MR. WINGATE:     Your Honor, I'll quite

1       frankly indicate that I'm not in a position to go  
2       forward. Had I known, we would -- I would have  
3       worked on closing arguments over the lunch break,  
4       but I did not with the understanding that the  
5       Court had concluded or felt that we would be  
6       proceeding to closing argument and finishing this  
7       case tomorrow morning. That's what I would be in  
8       a posture to do at that time. I'm not available  
9       now.

10               THE COURT:       Well, it is now 20 minutes  
11       to 2:00 or 25 minutes to 2:00. We're going to  
12       have to go through these instructions and that  
13       will take a little while. I think that I would  
14       prefer to just spend some time going over these  
15       arguments this afternoon. I'll release the jury  
16       early, have them back here first thing in the  
17       morning. You'll know what the instructions are  
18       going to be at that point. You'll be able to  
19       tailor your arguments accordingly, so I'm going  
20       to release the jury early today and then we'll  
21       work on these instructions.

22               MR. WINGATE:    All right.

23               THE COURT:       All right. So, let's go

1 back on the record, let the jury go and we'll  
2 come back at what, 9:00 o'clock tomorrow morning?

3 MR. WINGATE: That's fine.

4 MR. LOISEL: Well, with respect to  
5 releasing the jury, obviously the State needs to  
6 rest and Defense needs to rest before we do that,  
7 right?

8 THE COURT: We'll do it on the  
9 record -- or we'll do it in front of the jury.  
10 Okay. Very good.

11 (WHEREUPON THE PRECEDING DISCUSSION  
12 OUTSIDE THE PRESENCE OF THE JURY CONCLUDED AND  
13 THE FOLLOWING PROCEEDINGS WERE HELD.)

14 THE COURT: Mr. Loisel.

15 MR. LOISEL: Thank you, Judge. At this  
16 point, the State of Ohio rests. We would ask  
17 that State's Exhibits 1 through 11 be admitted  
18 into evidence as well as State's Exhibits 13  
19 through 25 at this point.

20 THE COURT: All right.

21 MR. LOISEL: We would withdraw State's  
22 Exhibit 12.

23 THE COURT: All right. Pursuant to

1 the Court's previous rulings, those exhibits will  
2 come in. Mr. Wingate.

3 MR. WINGATE: Yes, Your Honor. I'll  
4 indicate on behalf of Mr. Wilson and Mr. McElroy,  
5 we will not present any evidence and we will  
6 rest.

7 THE COURT: All right. The Defendant  
8 rests. Ladies and gentlemen of the jury, at this  
9 time all of the evidence that you will be hearing  
10 in this case is now in. The next stage in this  
11 process will be the coming up with a set of final  
12 instructions. This is a serious case and there  
13 are a number of things that the Court and the  
14 attorneys are going to have to go over to  
15 formulate a proper set of instructions. That  
16 typically takes a while and then after that has  
17 been agreed upon, the attorneys will have an  
18 opportunity to address you in closing arguments.  
19 Due to the fact that we're now in mid afternoon,  
20 we're going to recess these proceedings today.  
21 The attorneys and I will be working the rest of  
22 this afternoon, but you folks will return  
23 tomorrow at 9:00 o'clock, at which time you will

1       hear the final arguments of Counsel and the final  
2       instructions by the Court and then you can  
3       commence with your deliberations.

4               So, again, do not discuss this case among  
5       yourselves, nor with anyone else, including  
6       spouses and significant others. Again, we'll  
7       remind you that you should avoid reading The  
8       Blade or any other newspaper tonight and we'll  
9       see you fresh and early in the morning, at which  
10      time, the case I expect will be handed to you  
11      before -- a little before noon. Anything else at  
12      this time?

13              MR. WINGATE:     Nothing further.

14              THE COURT:       All right. We'll be in  
15      recess.

16                               (RECESS TAKEN.)

17              (WHEREUPON THE FOLLOWING DISCUSSION WAS  
18      HELD OUTSIDE THE PRESENCE OF THE JURY.)

19              THE COURT:       Back on the record. Let  
20      the record reflect that we are in chambers going  
21      over proposed instructions and procedures.  
22      Preparatory to the final arguments of Counsel,  
23      and the Defendant has indicated that it was his

1 intention to introduce his two exhibits before  
2 resting since those items were in the State's  
3 possession. It slipped his mind. Do you want to  
4 move those exhibits at this time, Mr. --

5 MR. WINGATE: We do, Your Honor,  
6 Defendant's Exhibits A and B into evidence.

7 THE COURT: Mr. Loisel.

8 MR. LOISEL: Well, Judge, I was going  
9 to bring this to the Court's attention. They  
10 weren't in the State's possession. All exhibits  
11 were in chambers when we were discussing those  
12 exhibits. The State will object. Obviously  
13 Defense Counsel has rested and this case has been  
14 presented, however, as I said, the State was  
15 going to bring this to the Court's attention and  
16 Mr. Wingate's attention due to the fact of not  
17 admitting these two items would probably lead to  
18 argument for ineffective assistance of Counsel  
19 later on down the line, so ultimately these  
20 exhibits probably do need to be admitted but we  
21 need to object as --

22 THE COURT: I'm going to allow you to  
23 reopen your case solely for the purpose of moving

1       those exhibits. Are there objections to the  
2       exhibits themselves?

3               MR. LOISEL:     Not with respect to  
4       Exhibit A, which I think is the letter written by  
5       Janet Wilson. With respect to Exhibit B, I don't  
6       think it was ever authenticated as to being in  
7       the same condition or substantially the same  
8       condition as it was when she was presented it by  
9       Attorney Wingate back whenever it was presented  
10      to her.

11             MR. WINGATE:    Your Honor, I'll indicate  
12      from the witness stand I actually gave her the  
13      exhibit. She looked at it. We went through the  
14      various paragraphs of it. The Prosecutor, as a  
15      matter of fact in his redirect examination  
16      covered the paragraphs that I had not spoke of,  
17      and the witness from the witness stand attested  
18      to each one of the statements saying -- or each  
19      one of the paragraphs contained in the entirety  
20      of the document saying that it was containing  
21      true and false statements.

22             So, she did recognize it, and was aware  
23      of it. She even indicated that it was gone over



1 with her at the rehab center and that there were  
2 corrections that she made to the document,  
3 however, she still could not sign it at that  
4 time. So, recognizing accepting the --  
5 recognized the document, accepting the  
6 information containing therein as being --  
7 contained therein as being accurate and true,  
8 testified to by this witness.

9 THE COURT: This was a document that  
10 had your changes noted on it?

11 MR. WINGATE: Changes that she had  
12 instructed me to make, yes.

13 THE COURT: Well, certainly a lot of  
14 testimony about that particular exhibit. I'm a  
15 little troubled by the fact that these are notes  
16 that you prepared rather than the witness,  
17 although I -- in light of the testimony about  
18 that document, it appears that she did adopt  
19 those statements in the sense that you prepared  
20 those at her -- you prepared those at -- as a  
21 memorialization of her statements and she did  
22 adopt that as an accurate representation as you  
23 stated. It is a hearsay document. I'm going to

1       let A in. I'm going to let you argue B but I'm  
2       not going to admit B. You can -- and you'll both  
3       have copies available. You'll be able to use  
4       that for argument purposes.

5               MR. MCELROY: Judge, with regard to B, I  
6       think or it is the Defendant's position that none  
7       of the statements in that document are offered to  
8       prove the truth of any matters asserted, just  
9       that they were said by Janet Wilson. I think  
10      both parties have admitted --

11             MR. LOISEL: No.

12             THE COURT: I'm going to allow you to  
13      put whatever spin on it you want. You can waive  
14      it in front of the jury and you can read from it,  
15      but it is not going to go in. It is a document,  
16      so -- okay. Anything else?

17             MR. LOISEL: No. Are we going to  
18      then -- when can we expect a final copy of the  
19      jury instructions I guess?

20             THE COURT: Well, I don't have a  
21      bailiff in here. As soon as she can type it up,  
22      why we'll -- do you want to come in at 8:30  
23      tomorrow morning and just take a look at them?

1                   MR. LOISEL:       Well, I would assume if  
2                   there's a way that we can get them before the end  
3                   of the day and obviously --

4                   THE COURT:       We can try.

5                   MR. LOISEL:       And obviously no -- why  
6                   don't -- State's suggestion is if there are any  
7                   problems, obviously we can come to the Court  
8                   first thing in the morning, but --

9                   THE COURT:       We'll trying to get them  
10                  to you before you leave today.

11                  MR. WINGATE:     The only other thing from  
12                  the Defense is we would, again, renew our motion  
13                  that a complete copy of the Prosecutor's file be  
14                  made and turned over to the Court and sealed for  
15                  appellate purposes in the event there is a  
16                  conviction in this case.

17                  Again, as the Court is aware, we had at  
18                  least one situation at the initial stages of the  
19                  trial wherein there were statements.

20                  Specifically Detective Seymour would have  
21                  attested to that phone conversation that was  
22                  made -- purportedly made by Brenda Navarre  
23                  indicating frantic crying, that was never

1       produced for Defense Counsel, even though State  
2       was aware of it and we had made a request that  
3       this information be made pursuant to discovery  
4       supplied to us.

5               More importantly, at the end of the  
6       trial, Detective Beavers talked about a Crime  
7       Stopper report which listed the name of  
8       Robert Wilson as a potential suspect. That was  
9       not supplied to Defense Counsel until September  
10      the 2nd, the day of trial, although that document  
11      had been, in fact, in the possession of Detective  
12      Beavers for a period of time. I would  
13      respectfully ask the Court, even though they may  
14      be considered minor, I can't point to anything  
15      that may be major because I don't have the  
16      Prosecutor's file. But for the purposes of  
17      appeal and protecting the rights of Mr. Wilson, I  
18      would respectfully ask the Court to revisit the  
19      matter of having the State provide a complete  
20      copy of its file for appellate purposes and  
21      sealed for appellate purposes in this case.  
22      Indicating, again, as we did with the motion when  
23      we filed it, that it is not an extraordinary

1 request because it has been granted in at least  
2 two other matters here in this Lucas County  
3 Courthouse, one before the Honorable Charles  
4 Wittenberg, and one before I believe it was  
5 Judge Dartt -- no, I'm sorry. I take that back.  
6 It was three judge panel, State of Ohio versus  
7 Harmon. The Honorable Charles Doneghy as chief  
8 judge on the three judge panel, Judge Bowman was  
9 the other, and I can't remember the third Judge  
10 at this time, and I do apologize, but that  
11 request had been granted in this matter in at  
12 least two different occasions and I would  
13 respectfully ask the Court to do the same.

14 MR. LOISEL: Judge, this matter has  
15 been addressed by this Court with respect to  
16 Attorney Wingate's renewed -- renewed motion to  
17 have the Prosecutor's file sealed and made  
18 available for appellate purposes. This Court has  
19 already ruled on that particular motion.  
20 Mr. Wingate previously cited the two other cases  
21 in his 25 years of practice he's had this happen  
22 in two other cases and the Court still denied  
23 that motion. He points to two things that

1       happened in this particular trial. One where a  
2       statement of a witness was not made available to  
3       him, and by the rules of the Criminal Rules of  
4       Evidence, that statement does not have to be made  
5       available to him, A, until that witness testifies  
6       and, B, it is not material to the Defendant's  
7       guilt or innocence. That statement was merely  
8       part of motive. So, realistically, the State  
9       argues that that statement never had to be  
10      divulged to the Defendant.

11               Be that as it may, the other issue that  
12      was brought forward this morning with respect to  
13      a Crime Stopper tip, that was provided to  
14      Mr. Wingate as soon as the State received that.  
15      He couches his request -- strike that.

16               He asks that the Prosecutor's file be  
17      sealed and we would just ask that that motion be  
18      denied once again.

19               THE COURT:       I'm going to think on it.  
20      All right. We'll come back tomorrow.

21               MR. WINGATE:    You want us here at 8:30?

22               THE COURT:       I'll be here at 8:30 and  
23      take a look at the final draft.

1                   MR. LOISEL:       Judge, I may not be  
2           available until quarter after 9:00 tomorrow.

3                   THE COURT:       That's fine.

4                   MR. WINGATE:    That's fine.

5                   THE COURT:       Thank you very much.

6                   (WHEREUPON COURT ADJOURNED FOR THE DAY ON  
7           SEPTEMBER 4, 2008.)

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**C E R T I F I C A T E**

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I, THE UNDERSIGNED, HEREBY CERTIFY

7

THAT THE ABOVE AND FOREGOING IS A TRUE AND

8

COMPLETE TRANSCRIPT OF THE PROCEEDINGS HAD IN THE

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TRIAL OF THE ABOVE-ENTITLED CAUSE.

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Stacey L. McDevitt, RPR

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Official Court

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Reporter

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